

Fath-Baised Institutions and Human Development in Nigeria: The Kano State Hisbah Board in Focus

Habib Muhammad Hizqil¹

Bayero University, Kano, Nigeria

The concern over moral decadence in the midst of the social context in Kano state, emphasizes the need for Hisbah institution. The function of Hisbah institution is to command people to good deeds and forbid them from evil deeds in the society. The institution is responsible for proper implementation of the Shariah, as well as the societal reorientation about the Hisbah operations and the negative impact of social vices to human development. The essence is to promote public morality in the state, which leads to developing human potentialities in many dimensions. Therefore, the objective of this paper is to examine the role of Hisbah in the areas of public morality and human development in Kano state. The paper argues that despite many constraints, which include conflict between Shari'ah on one hand and secular constitution, laws and jurisdiction on the other, the institution records tremendous achievements in the areas of public morality, which have positive impact on the management of human development from the Islamic perspective. Hisbah plays a significant role in the abolition of prostitution, selling and consumption of alcohol and other intoxicants, which used to be prevalent in many parts of the state, and constitute major challenges to human development. These and other social vices constitute the source of moral decadence among youths thus, destroy their physical and spiritual potentialities, and render them unproductive. The study uses reports from published books, journals, as well as documentary and other statistical records from the Kano State Hisbah Board.

Key words: Hisbah; Shari'ah; Human Development; Public Morality; Social Justice

INTRODUCTION

The failure of secular system to address social and economic problems among others, led to the emergence of social vices in the society that consequently compel the public to agitate for the Shari'ah introduction in most parts of Northern Nigeria. They consider this movement as capable of addressing the socio-economic challenges facing the public; as well as enhancing public morality and human development among the citizenry.

Zamfara State Nigeria was the first among the nineteen Northern States that introduced Sharia'ah in October 27 1999, which was a decision the then government took willingly. Soon after that, there was widespread agitation for achieving the same in most parts of the region, particularly the Muslim dominated states. These events led to the popular movement for Shari'ah restoration in the Northern Nigeria and between 1999 and 2000, 12 states (Bauchi, Borno, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Niger, Sokoto, Yobe and Zamfara) chose to implement Shari'ah as their Legal System in varying degrees. The decision of these states was based on the constitutional provision in section 38 (1) of the Constitution, Federal Republic of Nigeria 1999, which states that:

¹ Author : muhizqil@yahoo.com

Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance².

This constitutional backing, coupled with the popular demand from both the Ulama and the public, made introduction of Shari'ah a necessity in Kano state, being a Muslims' populated state with historical, traditional, social and cultural values of Islam, and an estimated population of 9.4 million according to the 2006 Population Census³. This is due to the belief that Shari'ah could provide a solution to the current problems of immorality, which affects human development negatively.

Having introduced Shari'ah in Kano state on June 26 2000, institution like Hisbah became necessary, for proper implementation of the Shari'ah law, as well as the speedy societal reorientation in the region; because the Nigeria Police cannot enforce Shari'ah as it inclined to the Federal Constitution and the Police Act that guide their operation, which are secular in nature. Hisbah is a religious institution charged with the responsibility of commanding people to enjoin good whenever they start to neglect it, and forbid evils whenever they start to engage in it.

The paper examines the role of Hisbah in Kano state in the areas of public morality and human development. This includes the abolition of prevalence of prostitution, selling and consumption of alcoholic drinks, as well as the institution's contributions in marital disputes reconciliations; with the aim of making Kano a healthy environment capable of developing productive society.

Firstly, it is hoped that the paper will add literature to the existing body of knowledge. Secondly, it will be a source of reference to the students, academicians and other researchers. Thirdly, it will explore the contributions of Hisbah for the public to read and appraise. Finally, it will shade more light on the need for the society to collaborate with Hisbah with a view to curbing out immoralities and other social vices in the society.

The paper is organized in six main sections. Section one, conceptualizes public morality from Western and Islamic perspectives. Section two, explains the concept of human development, and briefly explores the Islamic assumptions on human nature as well as the functions of man in Islam. Section three, discusses the concept of Hisbah and historical overview of Hisbah. Section four, comprises of re-emergence of Hisbah in Nigeria, functions and structures of the Kano State Hisbah Board, the role of Hisbah in human development and challenges and constraints of Hisbah operations. Section five, contains the concluding remarks.

CONCEPT OF PUBLIC MORALITY

The concept of morality has interchangeably been used with that of ethics (Grassian 1992). Grassian believes that the concepts of moral and ethical principles have no clear distinction. Aspects likes right conduct, obligation and responsibility and social justice are the primary concerned of morality. Facione (1991) argues that both legality and morality are the similar for practical application. He asserts that to ensure social stability, people should know that there exists law and order.

² The Constitution, Federal Republic of Nigeria 1999

³ Source: Official Gazette (FGP 71/52007/2,500 (OL24): Legal Notice on Population of the Details of the Breakdown of the National and State Provisional Totals 2006 Census.

In the descriptive form, the term morality means codes of conducts provided and accepted by a society as whole, a religious group, or an individual (Rohamawati 2011). The term could also refer to codes of conduct applied to a particular circumstance that could be considered by all rational persons normatively (Rohamawati 2011). In Islam, morality is grounded on the spirit of harmony and perfection in every aspect of life (Sa'id 1985). He argues that in Islam, man is servant as well as vicegerent of Allah (SWT). Any person who believes in the Hereafter and considers himself as a vicegerent of Allah will not take wrong and evil for right and good respectively (Sa'id 1985).

As a vicegerent of Allah, man is therefore, expected to act and behave in accordance with the Shari'ah. He must ensure that Islamic sources of knowledge remain his only guidance as well as sources in reference in all his sphere of life. His ultimate goal must be the desire to seek the pleasure from Allah (SWT), which could be achieved only when a man abstains from any form of immorality (evil) prohibited by Islam and strictly adhered to moral conducts provided by Islamic law. Public morality is concerned with the moral quality of right and wrong and good and evil that deals with the entire observation that the society considered as scandal (Rohamawati 2011). On the other hand, drug sales, purchase or use, gambling, prostitution, pornography, fornication, adultery, obscenity and other sex offences, are described as offences against public morality (Schmallegger & Hall 2010).

The term of morality according to these scholars is generally concerned with the rights and wrongs as well as good and evil. This includes any law or code of conduct put forward and accepted by a particular society for the regulation of their behaviour. In the light of this, it can be inferred that Muslim can develop codes of conduct based on Shari'ah in order to regulate the general conducts and behaviours of their societies.

HUMAN DEVELOPMENT FROM ISLAMIC PERSPECTIVE

The concept of human development has been defined by many scholars with varying meanings, perceptions and focus. "People are the real wealth of a nation." (1990 HDR). This assertion signifies that human development is a people oriented and the goal of any human development is to improve the living standard of people. The 2010 Human Development Report reveals that the main objective of the HDR for the past 20 years is fundamentally about people.

Accordingly, the 1990 Human Development Report (as cited in the 2010 HDR) defines the concept as: Human development is a process of enlarging people's choices. The most crucial ones are to lead a long and healthy life, to be educated and to enjoy a decent standard of living. Additional choices include political freedom, guaranteed human rights and self-respect – what Adam Smith called the ability to mix with others without being "ashamed to appear in public."

Similarly, the 2010 HDR considers people as responsible of designing and executing their development at individual, family and societal levels, through public debates, collaborations and democratic activities. It is believed that when people are empowered, they will be able to initiate changes in their livelihood. The term human development seems to be centrally concern with empowering people at the individual, family, groups and societal levels in order to initiate and execute changes for the betterment of their lives. According to Al-Buraey (2012), the term change from the Islamic perspective could not be taken for granted. The general position about the concept of development is that there are certain elements that are not subject change.

This includes those “Islamic doctrines, principles, tenets, articles of faith as well as the ideology that shapes Islamic system and makes it quite distinctive are not subject to change”⁴. Islam is a religion of moderation; hence, extremism has no place. Both the rational needs and the spiritual requirements for a man have been provided. Although the spirit of *zuhud* (asceticism) is encouraged, but not to the extent of exclusion of the beauties and material attraction of this world. The holy Qur’an commanded the Prophet and all the Muslims:

But seek, through that which Allah has given you, the home of the Hereafter; and (yet), do not forget your share of the world. And do good as Allah has done good to you. And desire not corruption in the land. Indeed, Allah does not like corruption.⁵

In another verse, the Holy Qur’an commands that:

Say, Who has forbidden the adornment of (i.e., from) Allah which He has produced for His servants and the good (lawful) things of provision? Say, They are for those who believe during worldly life (but) exclusively for them on the Day of Resurrection. Thus do We detail the verses for a people who know.⁶

Another principle which does not change in Islam is the distinction between *halal* (lawful or permissible) and *haram* (unlawful or prohibited or forbidden). Islam directs its followers to adhere or acquire only things that are lawful or permitted. This is to the exclusion of the unlawful, no matter how good their attraction, or easy accessibility may be. Therefore, Muslims are required to dress decently, to eat properly, to purify their souls, hearts and selves, as well as aspiring for cleanliness in every aspect of their lives. Similarly, beneficial mutual relationships between husband and wife, his family, and the old and young are considered sacred. The relationship between Muslims and the entire communities regardless of their beliefs are all specified in Islam. All these values and other ethical standards specifically explained in the Qur’an and Sunnah and therefore cannot be altered.⁷

Development does not permit or temper with the deep-rooted principles, such as decent and relevant clothing for both sexes, the prohibition of adultery, fornication, as well as any other way motivated by the desire to satisfy sex, or any intoxicants. Similarly, the issues of extravagance and wastage of wealth and resources, the guiding principles regulating transactions, example usury, or interest in banking, etc, are not subject to change.

On the other hand, apart from those elements which are expressly forbidden by Qur’an or Sunnah, or other secondary sources of shari’ah such as *ijma*, (consensus of the Muslim community), and *Qiyas* (analogical reasoning), or other things which concern *ibadat* (worship), the basic rule is permission. In other words, apart from those items expressly forbidden by Qur’an or Sunnah, all are permissible, in as much as they do not concern *ibadat* (worship). The following are examples of the aspects in which development are not only permitted, but also encouraged.

⁴ Al-Buraey M. A. (2002), *Management & Administration in Islam*. Iqra Welfare Trust (Publication Division), Bangalore India.

⁵ al-Qur’an, Al-Qasas 28:77.

⁶ al-Qur’an, Al-A’raf 7:32.

⁷ Ibid

Nothing in Islam prevents discoveries or developments in modern science and technology. This is not only encouraged, but also required, as in the Muslim community there must be specialists in all the branches of modern sciences and technology (Al-Buraey 2002).

Muslims are also free to modernize the architecture of their buildings according to the modernization and their environmental demands. Both Qur'an and Sunnah neither specify the layout of building, nor recommend the type of architecture. Muslims are also free to develop sophisticated nuclear power plant for many purposes including sustainable power generation. Islam endeavours to motivate its adherents to create such projects rather than just managing them (Al-Buraey 2002).

Thus, human development from the Islamic point of view, could be centrally concerned with empowering people at the individual, family, groups and societal levels in order to initiate and execute changes for the betterment of their lives and environment in accordance with the directives of Allah (SWT).

ASSUMPTIONS OF HUMAN NATURE FROM ISLAMIC POINT OF VIEW

According to Al-Buraey (2002), certain assumptions have been stated in both Qur'an and Sunnah about man, "his strengths and weaknesses, motivation, desires, rights and obligations – which apply to his relationship to the world of work." These assumptions are vital in understanding human development from the Islamic perspective as they can serve as guidance to the management of human development from Islamic point of view. These assumptions include:

1. Work is inherently natural in human life. In Islam, work is classified into good and evil deeds. Good work is the one, which is conducted in accordance with the provision of Shari'ah, and aimed at seeking the pleasure of Allah (SWT). Evil deed on the other hand, is the one that contradict the provision of Shari'ah, which is also considered unproductive from the Islamic point of view.
2. Man is an intelligent being capable of exerting self-control in carrying out his activities. More often, he requires external control, direction and/or supervision in order to perform his functions. From the Islamic perspective however, man can only restrict himself from whims and desires, as well as attaining a high level of self-controls, when he is both spiritually and intellectually competence.
3. Man is essentially a responsible being capable of performing any function assign to him. As stated in the Qur'an, man assumes the responsibility of his deeds by accepting the Trust of Allah (SWT). Nonetheless, Islam directs that man should be supervised to command him to good deeds and forbid him from evil deeds. This can take place at individual, organizational and governmental levels to ensure proper management of human development.
4. Man is an intelligent being who inherently possess the capability of utilizing his talents to develop his environment and other advancements in technology and modern sciences for his benefits.
5. Man possesses intellectual potentialities, which can be explored to motivate other fellow man. In Islam however, motivational methods are not restricted to monetary and material incentives. While these tools are not rejected, emphasis is placed on spiritual incentive because of its effectiveness in touching the hearts of the believers.

THE FUNCTIONS OF MAN

According to Al-Buraey (2002), ibadah constitutes the main function of man. He argues that contrary to the narrower Western perception of the term, the concept is not restricted to worship, as it is a comprehensive way of life that involves the entire human activities of all sphere of life. Allah (SWT) states that:

And I (Allah) created not the jinn and mankind except that they should worship Me (alone).⁸

Ahmad Saqr (1979) observes that Ibadah means not only to pray, to fast, to give alms, and to perform hajj, but also includes, among the many other aspects of life: eating, sleeping, studying, searching into the universe, scientific investigation, doing business, earning knowledge and sport activities. It also includes earning money to nourish and sustain one's family. In human endeavours and activities, as long as the intention is the attainment of the pleasure of Allah, then it is a type of worship.

Similarly, as the main function of man, ibadah also constitutes other tasks such as utilization of environment, administration of justice, as well as seeking of any knowledge that is not contrary to Shari'ah and beneficial to mankind. For example, knowledge is prerequisite to any sustainable human development in Islam, but knowledge has to be beneficial to individual or humanity as a whole, with the sole aim of seeking the pleasure of Allah (SWT).

All man's tasks must be carried out in accordance with the Shari'ah, as he acts as a khilafah (vicegerency of Allah). By virtue of being vicegerent of Allah (SWT) on earth, man is fully responsible and accountable to his Creator. Nadvi (1996) itemizes three qualifications to be fulfilled for man to be vicegerent:

1. That man must attain complete knowledge of all natural phenomena and of the laws under which they work.
2. That man must fully control his animal nature (evil qualities).
3. That man must practice that lofty code of morality, which brings him nearer to the Supreme Being.

Being Allah's vicegerent, man is automatically shouldered with the responsibility of amanah (trust). Allah (SWT) States that:

Truly, We did offer Al-Amanah (the trust or moral responsibility or honesty and all the duties which Allah has ordained) to the heavens and the earth, and the mountains, but they declined to bear it and were afraid of it (i.e. afraid of Allah's Torment). But man bore it. Verily, he was unjust (to himself) and ignorant (for its result). Al-Amanah is a moral responsibility, which governs man in the conduct of his daily activities and relations with other creatures with the ultimate goals of pleasing Allah (SWT).

⁸ al-Qur'an, Al-Zaariyat 51: 56.

CONCEPT OF HISBAH

The legal basis of the Hisbah is in accordance with the following Qur'anic injunctions. Allah (SWT) states that:

And let there be (arising) from you a nation inviting to (all that is) good, enjoining what is right and forbidding what is wrong, and those will be the successful.⁹

The believing men and believing women are allies of one another. They enjoin what is right and forbid what is wrong and establish prayer and give zakah and obey Allah and His Messenger. Those –Allah will have mercy upon them. Indeed, Allah is Exalted in Might and Wise.¹⁰

The aforementioned Qur'anic verses and Prophetic injunctions are only examples of the legal evidence of Hisbah from Qur'an. There are many Qur'anic verses and Prophetic sayings proving the legal obligation of the Hisbah observance either expressly or impliedly.

The word al-Hisbah is rooted from HSB. In its verb form, al-Hasb means "to be enough," and al-Hasab means "to count". The term also means "reward," and "administering and disposing the affairs in a nice way". The literal meaning nearest to the terminological content is "to seek the reward for any act solely from Allah," and "to make something only for the sake of Allah". Hisbah is "an institution of enjoining Ma'ruf when it is neglected and to prevent Munkar when it appears". Accordingly, Shaidhari adds, "improving the relations among the people" to the definition. Hisbah is could also be referred to as "the branch of knowledge dealing with orderly commercial transactions taking place among individuals or corporations in civilized communities."

Kavakci (1989) asserts that 'ma'ruf' (good) and munkar (evil) are mention in the Holy Qur'an 39 and 17 times respectively. He also reveals that about 50 Prophetic sayings related to ma'ruf (good) and munkar (evil) exists which also provide the appropriate punishments when the duty of observing this noble obligation is neglected. These injunctions indicate the importance attached to these aspects.

The duty of the Hisbah observance is obligatory upon every Muslim to the extents of his/her ability. This means that a Muslim should not wait until government institutionalizes the Hisbah, as guidance and counselling as well as public enlightenment may constitute discharging the obligation.

A HISTORICAL OVERVIEW OF HISBAH

Al-Mawardi (1996) believes that Hisbah serves as a fundamental basis in Islamic affairs. He argues that the early leaders used to attend to it personally due to its role in public order as well as ensuring personal rewards. However, the Caliph's negligence to this noble duty resulted in public disorder and corruption. He believes that the obligation of Hisbah is still valid despite the violation of the rule.

According to the Prophet (SAW) was the first person to perform the function of Hisbah. (al-Mawardi, 1996, Ibn Taymiyya, 1982, al-Gazali, 1991, Fodio, 2002, Islahi, 2006, Khan, 1982) The Prophet "used to inspect the market and give instruction for just

⁹al-Qur'an, Al-Imran 3: 104.

¹⁰ al-Qur'an, Al-Taubah 9: 71.

and fair dealings". Khan (1982) maintains that the Prophet was the first muhtasib, who performed the functions of *amr bil ma'ruf wa-n-nahy anil munkar* in person. He notes that when the responsibilities and other engagements increased to the Prophet, he appointed Umar b. Khattab and Sa'id b. al-'As as muhtasib in Madina and Macca respectively.

The four rightly guided caliphs continued to perform this noble function of Hisbah in varying degrees. It had been reported by majority of scholars that many administrative institutions were established by Umar's administration (Al-Buraey, 2002). Similarly, those that had already been in existence like the institution of Hisbah, had been innovated and new reforms were introduced to enhance their performance. Al-Buraey (2002) notes that:

Umar established night patrol ('assah); the police (al-shurtah), with its head called sahib al-ahdath; and the institution of Hisbah, headed by an officer known as muhtasib, to maintain law and order in the marketplace. The muhtasib worked alongside the police officer but was independent of him. Hamarneh (1964) argues "caliph Umar Ibn al-Khattab (12-23/634-644) was the first to have understood and made this type of ethical and religious system of control operative under his supervision.

During his time as a caliph, Umar appointed Sa'ib b. Yazid and Abdullah b. Utbah as inspectors of the Madina market. It is also reported by Kavakci (1989) that Umar appointed two women Shifa bt. Abdullah and Samra bt. Nuhaik to inspect the markets as well as enjoining good and forbidding the evil. It was during the Abbasid Caliphs about half of the third/ninth century that Hisbah was reorganized as an administrative institution. Many contemporary scholars however, opine, "the term 'al-muhtasib' was used for the first time during the Abbasid caliph al-Mahdi". Hisbah was established in Egypt in the fourth/tenth century, from where it was extended to North Africa. Hisbah as an institution regained its prestige with increase in functions, responsibilities, and jurisdiction under the Ottoman Empire. It was probably during this Empire that the functions and responsibilities of the muhtasib were codified.

Hisbah like most of the Islamic institutions, suffered drastically because of the advent of colonialism. Countries like Persia, Turkey, Egypt, India, Nigeria, etc, either have de-structured or abolished the institution completely by the 19th century. Its secular functions had been assigned to various ministries, agencies, and departments, while the religious functions have been considered irrelevant. Even though Hisbah was not formally institutionalized in India, the appointment of muhtasib was evident in the area before Mughals replaced it with the Kotwal, which has limited jurisdiction when compared to the muhtasib. However, muhtasib's office was present in Fez Morocco up to the early part of the 20th century.

In Nigeria Hisbah was first introduced in the Sokoto Caliphate by (Amir al-Mu'uminin) Shaykh Usman Ibn Fodio who reigned from 1804 to 1815. Ibn Fodio used to perform Hisbah in person throughout his period. Similarly, he directed all his governors (Emirs) to perform it. In a letter he wrote to them, he explained that their administration should repair mosques, command the performance of the five daily prayers, and other religious rites as well as regulating the market activities in order to enhance justice.

It is interesting to note that Sultan Muhammadu Bello (reigned 1815-1835), continued with this noble duty of Hisbah. "He retained the office of the muhtasib and the muhtasib appointed by his father, that is, Muhammadu Julde in the Caliphate, who was not an ordinary official but a senior minister who deputized for the Caliph whenever the latter is away from Sokoto. The muhtasib, being a minister for public and social welfare,

performed the functions of maintaining public morality, economic stability and other administrative responsibilities.

According to Khan (1982), Saudi Arabia is presently considered as the only country that seems to retain the religious aspects of Hisbah, while the secular functions have been assigned to other governmental organs. However, this paper argues that in addition to Saudi Arabia, Kano state Nigeria, also retains many of the religious aspects of Hisbah.

RE-EMERGENCE OF HISBAH IN NIGERIA

Being among the 12 states that introduced Shari'ah in the year 2000, Kano considered the establishment of Hisbah institution as a necessity for the proper implementation of Shari'ah as well as speedy societal re-orientation in the state. After the Shari'ah introduction in November 26 2000, Kano state established a "State Advisory Committee on the Establishment of Hisbah Committee in Kano State," under Shaykh Umar Sani Fagge, with the following terms of reference; as reported by Sharrif (2011).

1. To examine and recommend appropriate functions/duties for the proposed committee on Hishah.
2. To examine and recommend appropriate composition of the committee including requisite qualifications of the committee members.
3. To examine and recommend appropriate organizational chart for the administrative structure;
4. To identify and recommend suitable officials for the proposed administrative structure;
5. To examine and make appropriate recommendations on the issue of remuneration to be paid to the committee members and the administrative staff of the committee;
6. To examine other relevant issues and make appropriate recommendations to the government.

As a result of the outcome of this committee and the pressure from the Ulama and public, (who perceived government as being reluctant to implement Shari'ah) coupled with the immoral behaviour from some of the police, the Kano State Hisbah Committee was established under the chairmanship of Dr. Aminuddeen Abubakar.

In a similar vein, another group emerged as the Independent Hisbah Committee (which had representation from different Islamic organizations) under the leadership of Alhaji Ado Mohammed, which according to Sharrif (2011) ". . . actually laid the foundation of the movement for the cleaning up of the society especially prostitution and alcohol consumption and other social vices."

It was in 2003 that Hisbah became fully institutionalized and the two parallel Hisbah committees (the Independent Hisbah Committee and the Kano State Hisbah Committee) were harmonized, and accordingly, the Kano State Hisbah Board Law, (2003), established the Kano state Hisbah Board. The law spelt out the structures, functions, and jurisdiction of the institution. Because of this development, the number of Hisbah corps in the state rose from 250 to 9,000 between 2003 and 2005, and it records many achievements in the abolition of prostitution, selling and consumption of alcohol and other intoxicants, as well as community reconciliation.

THE ROLE OF HISBAH IN HUMAN DEVELOPMENT IN KANO STATE

The tremendous success of Hisbah in various spheres since inception cannot be overemphasized. One of the functions of Hisbah that achieve remarkable performance is the Community Reconciliation Councils, popularly known as Zaurukan Sulhu. This is a special department of the Kano State Hisbah Board, charged with the responsibility of handling disputes that are essentially civil in nature, within families, between husband and wife, between parents and their children, between neighbours, friends, business associates, etc. Kano State Hisbah Board Directorate of Planning, Research and Statistic reveals that the councils have been established in each of the 44 Local Government Areas of the state, with the total membership of 7,260,45 and it serves as an alternative means of conflict resolution. The performance of this department cannot be underscored as from January to December 2009 alone, 10,753 marital cases were reconciled.⁴⁶ The reason for this success might not be unconnected with the fact that most people prefer to present their grievances to Hisbah than to police, because of the former's transparency and free of charge or bribe.

Similarly, 1007 Cinema/Video Viewing Centres that encouraged immorality were identified out of which 150 were closed down while 302 were sanctioned, between January and December 2009. In the same year, 2,964 cases of different social vices that comprises of theft, gambling, night clubs, rapes, homosexuals, etc, were handled, out of which 565 persons were prosecuted in the in the Shari'ah Court. Moreover, 81,644,911 cases of alcoholic and other intoxicants were handled; 21,390 traffic cases were resolved within the same period and 7,644 people converted to Islam.¹¹

It is evident that Hisbah struggles to curb out illegalities among the public and enhances its remarkable performance in Kano state but moral decadence and social injustice remain visible. In spite of the traces of social vices in the society; Hisbah continues to discharge its obligations, as in 2003, one Hamisu Sule was convicted by the Kano State Shari'ah Court for the alleged offence of rape. After been found guilty, he was sentenced to 18 months imprisonment or fine of N 15, 000 (USD 100) as the crime is punishable under section 260 of the Shari'ah Court Act. Similarly, in October 2003, a Shari'ah Court in Kano sentenced a prostitute to 720 days for dumping her infant baby in a well.¹²

In a related development, the Kano State Hisbah Board publicly denounced an alleged case of a same sex marriage (lesbians). The case involved five women of the entertainment industry in Kano. The women involved include Maryam Maiduguri who allegedly married four other women (A'isha Yola, Hadiza Yola, Maryam Soba and Hadiza Maiduguri). Hisbah involvement in the case led to taking actions from the government, including the demolition of the three buildings where the purported events took place (Olaniyi, 2011).

Similarly, Hisbah record shows that 6,506¹³ women have been arrested between 2007 and 2012 with the alleged offences of prostitution. According to the institution, those arrested with cases relating to prostitution are usually taken to hospitals for HIV/AIDS test, before prosecuting them to the Shari'ah Court. For example, Hisbah arrested 95 prostitutes at Kwanar Gafan Tomatoes Market; about 25 km from Kano city in April 2012, and 43 of them were tested positive to HIV/AIDS.

¹¹ Kano State Hisbah Board Directorate of Planning, Research and Statistics.

¹² *ibid*

¹³ Kano State Hisbah Board, *op.cit*.

In a similar vein, the Kano State Hisbah Board has arrested 23,046 crates, which contained 355,752 bottles of alcoholic drinks between 2010 and 2012. According to the Hisbah Law, those arrested should be prosecuted before the Shari'ah Court. After the judgment, a court order is normally obtained by Hisbah authorizing the destruction of the drinks publically. The Kano State Hisbah Board is currently engaged in a programme of marrying off 1,000 widows and divorcees in its efforts to curb moral decadence and socio-economic problem in the state. A first batch of 100 widows has already been married in 15 May 2012. As revealed by the Kano State Hisbah Board Directorate of Planning, Research and Statistic, and other documents, the achievements of Hisbah in the above mentioned and other areas are numerous and therefore, this could only represent a sample.

CHALLENGES AND CONSTRAINTS FACING HISBAH IN THE COURSE OF ITS OPERATIONS

It is evident that Hisbah has been facing many constraints in the course of carrying out its operations. This includes the allegation labeled against the Kano State Hisbah Board that it sought foreign assistance from Libya and Iran to train its personnel to carry out terrorist activities in 2005, by the then Federal Government. This allegation was generated into hot argument between the Federal Government and the Kano State Government, as the then Minister of Information alleged that; Hisbah establishment was contrary to section 214 (1) of the Nigerian Constitution 1999, which prohibits states from establishing Police Force. He also alleged that Kano State Government has converted Hisbah Corps into a parallel security outfit that is connected to foreign countries and therefore, it posed a great threat to the national security (Sharrif 2011). This led to the arrest and detention of the then Commander-General and Chief Executive of Hisbah and Deputy Commander-General (operations) in 2006, for 91 days.

In his reaction, the then Kano State Commissioner for Information, argued that Hisbah Guards is not a parallel security outfit, instead, it is "similar entities like Boys Scout, Girls Guide, Red Cross, Red Crescent, Civil Defence Corps which are neither mentioned in the constitution nor established by any law but accepted by the Federal Government and in particular, the police Hisbah on the other hand, was established by the Hisbah Board Law No. 4 of 2003 and section 7 (4) of this Law provides that one of the functions of Hisbah is rendering required assistance to the police and other security agencies, particularly in the areas of prevention, detection and reporting of offences (Sharrif 2011).

After what could termed as a legal battle between the plaintiff and defendant that includes several appeals, Niki Tobi JSC decided that the allegation that the Kano State Hisbah Board sent 100 of its personnel to Libya and Iran to receive training on terrorism was baseless. Hence, the constitutional Legality of the Kano State Hisbah Board was confirmed by this judgment of the Appellate Court (Sharrif 2011).

Hisbah personnel also face many challenges in the course of performing their functions, which threatens their lives and safety. A recent scenario is the arrest of prostitutes at Kwanar Gafan Tomatoes Market where more than 30 Hisbah Guards sustained various degrees of injuries as a result of the bloody clash between them and a segment of youths in the area, who oppose to such operation (Sharrif 2011). These are some of the challenges facing Hisbah in the course of carrying out its functions, as they serve as an example.

CONCLUDING REMARKS

It seems that the secular system fails to address social and economic problems in the society. This led to popular agitation for Shari'ah introduction by the Northern states of Nigeria where the populations are predominantly Muslims. The movement is based on their beliefs that Shari'ah is capable of addressing the current socio-economic problems and moral decadence, which have negative impacts on any sustainable human development.

Having introduced Shari'ah in most parts of Northern states, Kano State inclusive, an Islamic institution for proper implementation, as well as societal reorientation is required; as Shari'ah implementation falls outside the jurisdiction of police, who operate under secular laws. This situation necessitated the establishment of Hisbah institution in Kano State, for commanding people to good deeds and forbidding people from evil acts.

It has been seen that understanding Islamic assumptions about man is necessary as it provides guidance for the proper management of human development from an Islamic point of view. Such management must be grounded on the concepts of tawhid, khilafah, amanah and ibadah that will serve as guides to man's temporal and spiritual activities. Despite a number of constraints and allegations faced by the Kano State Hisbah Board, in the course of its operations, the institution is able to achieve a remarkable performance in ensuring public morality, which is a fundamental prerequisite for achieving human development.

Hisbah and Human development management in an Islamic perspective are inseparable, as the realization of the latter relies heavily on the existence of the former. Hence, the moral values of Hisbah could be blended with the modern system of human development, because the wholesale adoption of the Western approach so far fails to achieve the desired result, especially in the Third World Countries like Nigeria. However, the paper is conceptual in nature, and further study needs to be conducted in order to examine the perceptions of various stakeholders concerning the role of Hisbah to human development.

REFERENCES

- Africa Today. 2011. Vol. 57, issue 4, Indiana University Press, pp. 70-96, 137.
- Al-Buraery M. 2002. *Management and Administration in Islam*. Bangalore : Iqra Welfare Trust (Publication Division).
- al-Ghazali 1991. *Ihya Ulum Din (The Book of Religious Learnings)*. Translated by Fazlul Karim. Cairo : Alnabar Publishers & Perfumers.
- Dogon-Daji. 2003. *The Institution of Hisbah as a Tool of Economic Regulations, With a Special Reference to the History of Sokoto Caliphate*. The International Institute of Islamic Thought, Nigeria.
- Fodio A. 2002. *Guide to Hisbah*. Translated by A. B. Luwa. Kaduna : Iqra'a Publishing House.
- Grassian V. 1992. *Moral Reasoning: Ethical Theory and Some Contemporary Moral Problems*. New Jersey : Prentice Hall, Englewood Cliffs.
- Hamarneh S. 1964. *Origin and Functions of the Hisbah System in Islam and its Impact on the Health Professions*, Franz Steiner Verlag GmbH, Wiesbaden, in *Health Sciences in Early Islam*. Texas: Zahra Publication.
- Ibn Taymiya. 1982. *Public Duties in Islam: The Institution of Hisbah*. trans. Mukhtar Holland. U.K. : The Islamic Foundation,

- Islahi A. A. 2006. Works on Market Supervision and Shar'iyah Governance (al-Hisbah wa al-siyasah al-shaar'iyah) by the sixteenth century scholars. *Quarterly Journal of Pakistan History Society*, Vol. 54, No. 3 (2008): pp.7-20.
- Kavakci Y.Z. 1989. Fiqh, Islamic Law & Usul Al-Fiqh. www.islamonline.org Retrieved on 20/11/2011.
- Khan M.A. 1982. *Al-Hisbah and the Islamic Economy, in Public Duties in Islam by Ibn Taymiya*. Leicester U.K : the Islamic Foundation,.
- Moten, A. R. 2004. Islamization of Knowledge in Theory and Practice: The Contribution of Sayyid Abul A'la Mawdudi. *Islamic Studies*, 43:2 (2004) pp. 247-272.
- Noor, A. 2007. *Social Justice and Human Development*. Bangaladash: Adorn Publication.
- Olaniyi O.R. 2011. Hisbah and the Shari'a Law Enforcement in Metropolitan Kano.
- Peters R. 2001. The Reintroduction of Islamic Criminal Law in Northern Nigeria. A Study Conducted on Behalf of the European Commission.
- Qur'an. 1997. Arabic Text with Corresponding English Meanings, translated by Saheeh International – Riyadh.
- Rohmawati, D. S. 2011. A Study on the Public Morality of the Main Character in F. Scott Fitzgerald's the Beautiful and the Damned. <http://efkipunirow2008.wordpress.com> Retrieved on 24/02/2012.
- Shahabuddin, A. S. 2011. Standards for Medical Practices as Mirrored in Hisbah Treatises, *Revelation and Science*. Vol. 01, No. 01 (2011) 32-38.
- Sharrif M. U. 2011. *Hisbah: Origin, Philosophy and Practice in Kano State, Nigeria*. Nigeria : Tellettes Consulting Co. Ltd.