

Institutionalization of *Hisbah*: A Means to Achieve Peaceful and Credible Elections in Nigeria

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Abstrak

Pilar penting dari apa yang disebut demokrasi, yaitu pemilihan umum, telah diwarnai dengan kekerasan dan ditandai dengan berbagai masalah mulai dari kecurangan, pembelian suara, pencetakan kartu pemilih secara ilegal, kepemilikan kotak suara secara ilegal, pengisian kotak suara, pemungutan suara di bawah umur, dan pemalsuan hasil pemilihan umum hingga manipulasi hasil di Nigeria. Dengan demikian, pengalaman Nigeria dengan pemilu sejak kemerdekaannya cukup menantang meskipun pelaksanaan pemilu adalah satu-satunya cara yang dapat diterima di mana warga negara di negara demokratis dapat memilih perwakilan mereka. Oleh karena itu, makalah ini menilai salah satu lembaga penting yang diperkenalkan oleh Islam untuk melayani promosi kebaikan dan larangan kejahatan (*hisbah*) di masyarakat dengan maksud untuk menggarisbawahi pentingnya pelembagaannya untuk membendung ancaman malpraktek pemilu di Nigeria. Alasannya adalah karena lembaga *hisbah* berhasil digunakan selama periode klasik Islam untuk menangkap kasus-kasus kecurangan di pasar dan juga disposisi publik. Penelitian ini menggunakan metodologi penelitian kualitatif yang didasarkan pada tinjauan literatur. Data yang dikumpulkan dari berbagai buku, majalah, dan sumber-sumber lain, kemudian dianalisis. Temuan dari penelitian ini mengungkapkan bahwa malpraktek pemilu yang menjadi ciri khas pemilu yang lalu akan dapat diatasi dan pemilu yang kredibel akan dapat dicapai jika *hisbah* dilembagakan di negara ini. Penelitian ini menyimpulkan bahwa advokasi untuk memperkenalkan *hisbah*.

Kata Kunci : Pelembagaan, Hisbah, Perdamaian, Pemilu, Proses Pemilu

Abstract

The important pillar of the so-called democracy, which is an election, has been violent and marked by problems ranging from rigging, vote buying, illegal printing of voters' cards, illegal possession of ballot boxes, stuffing of ballot boxes, underage voting, and falsification of election results to manipulation of results in Nigeria. Thus, the Nigerian experience with elections since independence has been quite challenging despite that conduct of elections is the only acceptable means through which the citizens of a democratic country can choose their representatives. This paper therefore appraises one of the important institutions introduced by Islam to cater to the promotion of good and prohibition of evil (*hisbah*) in society with a view to underline the importance of

its institutionalization to stem the menace of electoral malpractices in Nigeria. The reason is that the institution of *hisbah* was successfully deployed during the classical periods of Islam to arrest cases of cheating in the marketplaces as well as the public dispositions. The study employs a qualitative research methodology based on literature review. Data collected from a variety of books, periodicals, and other sources, were then subjected to analysis. The findings of the study reveal that the electoral malpractices that characterized the past elections will be overcome and credible elections will be achieved if *hisbah* is institutionalized in the country. It concludes that the advocacy for its introduction in Nigeria is not an attempt to Islamize the country but a yearning call for the injection of an efficient institution that can change the narrative of electoral fraud in Nigeria as it was practiced in the Northern part of the country before its colonization.

Keywords: Institutionalisation, Hisbah, Peace, Election, Electoral process

Introduction

One of the challenges facing the democratic system in Nigeria is the conduct of internationally acceptable elections. Indeed, the history of the country is replete with the conduct of elections greeted by electoral fraud. The forms of electoral fraud that are inimical to the country's free, fair, and credible elections include a compilation of fictitious names on voters' registers; illegal compilation of separate voters' lists; illegal printing of voters' cards; illegal possession of ballot boxes; stuffing of ballot boxes; falsification of elections results; underage voting and illegal printing of forms used for collection and declaration of election results (Salami, 2012, 94). Hence, the elections in Nigeria are often described as incredible and marred by protests which sometimes led to violence.

It is important to note that Nigeria produced two elected governments between independence in 1960 and 1999 and both were overthrown in military coups. After the transition to civilian rule in 1999, the election that brought a retired general, Olusegun Obasanjo, to power was fraught with electoral fraud to the extent that the observers from the Carter Center held that they could not make an accurate judgment about the results of the presidential election (Michael, 2010, 51). Over 100 people also died and many were injured in the Federal and state elections in 2003. In addition, the elections conducted in 1999 and 2003 were expected to metamorphose into a credible election in the succeeding election period. However, the observers from the European Union still described the 2007 elections as among the worst they had seen and over 300 people were killed in the violence caused by the elections (Michael, 2010, 51).

Despite the significant improvements in the conduct of the election by the Independent National Electoral Commission under the chairmanship of Professor Attahiru

Jega in 2011, there were still incidents of violence; hijacking of ballot boxes by party thugs, and reports of police misconduct in the election. The protests in about 12 northern states after the elections turned violent and led to the killings and infliction of injury on innocent people (Dorina, 2011).

Against this background, this paper assesses one of the important institutions introduced by Islam to cater to the promotion of good and prohibition of evil (*hisbah*) in society with a view to underscore the prominence of its institutionalization to stem the menace of electoral malpractices in Nigeria. The fact that the functions of *hisbah* entail maintaining public law and order to regulate public life in such a way that a high degree of public morality is attained and society is protected from fraud is an indication that it is a potent tool that can change the narrative of the elections characterized by violence and electoral fraud in Nigeria. In addition, the institution of *hisbah* was successfully deployed during the classical periods of Islam to arrest cases of cheating in the marketplaces as well as in public dispositions. More so, the institution was utilized in the Northern part of the country before the colonization and it recorded a breakthrough in the sanitization of the community. Therefore, this paper examines the origin of *hisbah*, its scope, and its functions before delving into how it was utilized during the classical periods of Islam and the Sokoto caliphate to maintain orderliness and sanity in religious and social life so that Nigeria can take a leaf from it to address electoral challenges confronting the country.

Research Method

This research adopts a qualitative with library-based approach reviewing both primary and secondary sources. Primary sources consist of articles and books that linked directly to the *hisbah* institution and its role in the cleansing of society. Secondary sources used in this research are also substantially related to the primary sources. They are the complementary data used in carrying out this research. The findings of this study are then presented using straightforward ideas that will help people to comprehend the potency of institutionalization of *hisbah* as viable machinery needed for credible elections in Nigeria.

Result and Finding

The findings of the study reveal that the electoral malpractices that characterized the past elections conducted in Nigeria will be overcome and credible elections will be achieved if *hisbah* is institutionalized in the country. The reason is that the *hisbah* was utilised during

the classical periods of Islam and it was efficient in revamping moral decadence in the marketplaces and betterment of administrative system. The institution also offered a robust organizational structure and competent human resources in quality and quantity at the central, institutional, and regional government.

***Hisbah*: Origin and Scope**

Etymologically, the term *hisbah* is derived from the root words *ihtasaba yahtasibu*, *ihṭisaban* and, *ḥāsaba*, *yuḥāsibu*, *muḥāsabah*. It also comes from the root word *ḥasaba yaḥsubu* meaning to count or measure. According to Ibn Manzūr, the word *hisbah* connotes anticipating a reward from Allah or doing good deeds in agreement with the teachings of Islam (Ibn Manzūr, 1414 AH, 1/312). The definition aligns with the ḥadīth of Abū Hurayrah that reads: ... من صام رمضان إيماناً واحتساباً meaning: “Anyone who observes the month of Ramadan with faith in Allah while expecting rewards from Him (*iḥṭisāban*)...” (Al-Bukhārī, 1422AH, 3/hadith 1901). The literal meanings of *hisbah* also include self-evaluation (*muḥāsabah*), detestation of an act (*ʾInkār*), excellent plan (*ḥusnuʾt-Tadbīr*), management (*al-ḥisbah*) and counting (*al-ʿadd*) (Ibn Manzūr, 1414 AH, 1/314).

In Islamic parlance, *al-ḥisbah* is defined by medieval and modern scholars variedly. *Hisbah* is defined as a religious institution saddled with the roles of enjoining righteous acts and condemning reprehensible acts (Ibn Khaldūn, n.d, 407.). Thus, it is incumbent upon the leader of Muslims to appoint a competent man with assistants to discharge the obligation on his behalf. *Al-Muḥtasib* is therefore the man appointed to command the good when neglected and condemn the misdeeds when practiced by people. On the other hand, Al-Ghazālī defined *hisbah* as a process of curbing detestable acts with divine truth to prevent the perpetuation of illicit and detestable acts (Al-Ghazālī, n.d, 271). In the definitions of Al-Māwardī and Abū Yaʿlā Al-Farāʿ, it is explicitly stated that *hisbah* is an act of ordaining a righteous act when ignored and proscription of an unlawful act when patronized (Al-Māwardī, 2006, 349).

From the above definitions, it is crystal clear that the institution of *hisbah* is about the encouragement of good deeds and discouragement of evil and it is not limited to an aspect of life but it envelopes all human endeavors. In other words, activity of the institution covers all aspects of life, such as industry, agriculture, trade (Mustapha et al, 2019, 1487), or any other services since its main purpose is to prevent the society from any form of corruption, deviation from obligatory standard and anything that obstructs improvement of the quality of life (Muhamedi & Arifin, 2017, 48-65) It represents the institution established in

Islamic history for commanding what is good and preventing what is evil in line with the Qur'anic directive that says; "And from among you there should be a party who invite to good and enjoin what is right, and forbid the wrong: They are the ones to attain felicity" (Q3:104). Explaining the implicit and explicit implications of the above verse, Al-Māturī (2005, 2/448) remarked:

يحتمل أن يكون هذا خبرًا في الحقيقة، وإن كان في الظاهر أمرًا؛ فإن كان خبرًا ففيه دلالة أن جماعة منهم إذا قاموا على الأمر بالمعروف، والنهي عن المنكر - سقط ذلك عن الآخرين؛ لأنه ذكر فيه حرف التبعية، وهو قوله: (مِنْكُمْ أُمَّةٌ . . .). الآية ويحتمل أن يكون على الأمر في الظاهر والحقيقة جميعًا، ويكون قوله: (مِنْكُمْ) - صلة، فإن كان على هذا ففيه أن على كل أحد أن يأمر بالمعروف وينهى عن المنكر، وذلك واجب؛ كأنه قال: كونوا

(The divine saying) supposedly implies narrative in the expression even if it is a commandment in the literal meaning. However, there is proof (in the narrative) that it is not compulsory upon others (to engage in *Hisbah*) if a group of people stand out to enjoin good and discourage evil because He (Allah) employed particle of partition (*harfu't-Tab'īd* {this is used in Arabic language to denote that some people are enjoined and not all}) and that is saying (منكم أمة). It is also possible that (the divine saying) is a commandment in the expression and actuality. Therefore, the saying (مِنْكُمْ) is a conjunction. If that is the meaning, it becomes obligatory upon the individual to command goodness and interdict evil. It is like saying كونوا

On the other hand, Ash-Shawkānī (1414 AH, 1/423) held that it is a collective obligation. He unfolded his position while explaining the above quoted verse in *Fathu'l Qadīr* as follows:

أَنَّ الْأَمْرَ بِالْمَعْرُوفِ وَالنَّهْيَ عَنِ الْمُنْكَرِ مِنْ فُرُوضِ الْكِفَايَاتِ، يَخْتَصُّ بِأَهْلِ الْعِلْمِ الَّذِينَ يَعْرِفُونَ كَوْنَ مَا يَأْمُرُونَ بِهِ: مَعْرُوفًا، وَيَنْهَوْنَ عَنْهُ: مُنْكَرًا

Indeed, invitation to goodness and prohibition of evil is one of the collective obligations that should be discharged by the knowledgeable people who comprehend what they command as good and what they guard against as evil

In contrast to the above explanation, Ibn Hazm Az-Zāhirī (n.d. 4/132) held that the commandment of good and forbiddance of evil is an individual obligation. Other prominent scholars who subscribe to his philosophy include Ibn Kathīr, Muhammad Rashīd Riḍā, Ibn

Al-Jawzī, and Shaykh Muhammad ‘Abduh (Sulayman, 1996, 57). They argued that (مُنْكَم) employed is not a particle of partition but a particle of explanation.

Consequently, the Qur’ān described Prophet Muhammad (SAW) as an exemplary leader who keyed into the promotion of the ethical values in his society via the implementation of the demands of the principles of *hisbah*, otherwise known as *al-’amr bi’l-ma’ufwa’n-nahyu ‘ani’l-munkar* and hailed those that supported him in the exercise (Q7:157).

In his explanation of the above verse, Al-Māturdī submitted that *al-’amr bi’l-ma’ufwa’n-nahyu ‘ani’l-munkar* in the verse implied ordainment of every good act encouraged by Allah and interdiction of every act that is displeasing to Allah. It is therefore clear from the verse that the scope of *hisbah* or *al-’amr bi’l-ma’ufwa’n-nahyu ‘ani’l-munkar* is not confined to the spiritual realm because *al-ma’ruf* and *al-munkar* are generic terms that embody goodness and evil in all ramifications. It covers the social, economic, cultural, and political domains of man. Corroborating this, Ibn Taymiyyah (1992, 11) submitted:

وجميع الولايات الإسلامية إنما مقصودها الأمر بالمعروف والنهي عن المنكر ، سواء في ذلك ولاية الحرب الكبرى، مثل نيابة السلطنة، والصغرى مثل ولاية الشرطة ، وولاية الحكم، أو ولاية المال وهي ولاية الدواوين المالية وولاية الحسبة

The goal of all Islamic institutions is the enjoinder of good and interdiction of evil whether in the institution of the major war like representation of territory or minor like the institution of the police force, the institution of judiciary or financial institution which is the institution of financial records and *hisbah* institution.

It is clear from the above submission that ordaining good and forbidding evil is an integral part of Islam. In addition, it is instructive to state at this juncture that Prophet Muhammad was not a pacesetter in this regard. In other words, he was not the one who introduced the practice to man. Rather, he inherited the principle from the Prophets that came before him because it was one of the core messages they were charged to deliver to mankind. Confirming the prominence of the task, the Qur’ān 5:79 revealed that the Jews were cursed in reaction to their insistence on the perpetuation of reprehensible acts in all forms. Thus, it is imperative to discuss the qualifications of *Muhtasib*.

However, Osamiudiamen Obasogie (2022) submitted that the constitution of Nigeria disallows the practice of *hisbah* in the country. According to him, section 10 of the Nigerian constitution states that there will be no state religion and that section 15 (2) bans

discrimination based on religion. Premising on these two sections, he submitted that the *hisbah* group is illegal because it contravenes the two sections as they impose Islamic law. The arguments of Osamiuduamen, in our view, cannot hold water because Nigeria is a multi-religious state and every Nigerian has the right to promote the emblem of his religion and demonstrate it in his daily activities.

The Qualifications of *Muhtasib* and His Functions

Muhtasib must have certain qualifications to discharge the assigned tasks efficiently. The criteria to be met are Islam, maturity, knowledge, capacity, wisdom, and integrity. Other conditions include justice, the permission of the Imam, competency of *Ijtihād*, masculinity, and freedom (Abdu'l-Ḥalīm, 2007).

Relating the responsibilities of *Muhtasib*, Ibn Taymiyyah (1992, 16) stated unequivocally that the most important duty of a *Muhtasib* is to ensure that people do not neglect their five daily canonical prayers. The reason, according to him, is that the canonical prayer is an essential pillar of Islam and the most important after the profession of faith. Other duties of *Muhtasib* discussed by him include the prevention of all forms of fraud, safeguarding public decency, controlling actions of injustices, prevention of monopolies, ensuring an unhindered flow of goods to the market, elimination of all forms of *Ribā*, unjust enrichment in commercial transaction, safeguarding the spiritual values of Islam, responsible for destruction of any item or items that are either below the standard or adulterated, appraisal of the values of cloth and food, prevention of food wastage and price control when extortion prevails in the market places.

For the institution of *Hisbah* to be effective in the discharge of his functions, Al-Māwardī (2006, 354) spelled out the functions of *Muhtasib* based on the two spheres of *hisbah* (*al-amr bilma'ruf wan'nahyu 'ani'l-munkar*) and classed it into three. He therefore viewed the duties from the following classifications:

- 1) Matters related to the rights of Allah
- 2) Matters related to human rights
- 3) Matters related to the rights of Allah and human rights

Explaining the first classification, which is the matters related to the rights of Allah, Al-Māwardī (2006, 354) submitted that it is one of the responsibilities of *Muhtasib* to command people to observe compulsory acts of worship. It is also a duty owing to the masses by the *Muhtasib* to remind an isolated person or individual and order him to observe prayer

if he forgets the appointed time for the prayer. He is also to punish the individual who omitted it if he remembers it, but he does not punish him if it is out of forgiveness.

In his explication of the matters related to human rights, Al-Māwardī (2006, 355) contended that the *Muhtasib* must ensure the provision of water to the general populace if the water supply fails. Other functions of *Muhtasib* he mentioned include mandating individuals to fulfill the individuals' rights, offset of debts, supervision of weight and measures, and prevention of people from becoming involved in dubious situations and suspicious circumstances. Conduct of fair and credible election is however missing in his explanation of human rights. It is to be categorized under this aspect because it is one of the rights of man to be selected or elected to occupy prominent officer if he has the wherewithal

As for the matters related to the rights of Allah and human rights, Al-Māwardī (2006, 355) stated that the roles of *Muhtasib* include seeing that those who have guardianship over women regarding their marriage ensure that their partner is found if they demand it, and seeing that the *'iddah* is completed if they are divorced; he must punish the woman who does not respect the *'iddah*, but he may not punish those guardians who do not fulfill their duties.

It is essential to state at this juncture that the importance of *Hisbah* institution in every society cannot be overemphasized. This is because many Muslims derail from the basic norms and rules permitted by Allah despite its beautifully codified codes of conduct of practice and the attitudes are very hazardous to the community. Other functions of *Hisbah* include maintenance of public facilities, resolution of disputes between neighborhoods on minor matters that do not involve legal interpretation, monitoring of the peace of the public, protection of the burial ground from being used for frivolities or business activities (Ahmad J. et al, 2023, 32). Consequently, the integration of *Hisbah* personnel into the electoral process will improve it and enhance its efficiency as it is proven that its roles go beyond the spiritual realm.

Contrary to the qualifications spelled out by Islamic law, Human Rights Watch reported that most *Hisbah* members in Kano were recruited at the local level by their respective traditional leaders and local government. It unfolded that they are men with a low level of formal education, no background in law, and no training in enforcement or procedures for arrest, investigation, or gathering of violence (Lukman, 2022). This submission by Human Rights is faulty because there is no harm in the recruitment made by the traditional leaders or local government` if the individual recruited has fulfilled stipulations of Islamic law. Also, formal education cannot be used as a yardstick for

recruitment because some individuals who never attended formal education excel in their endeavors.

In addition, the engagement of the *Hisbah* group, who met the above identified conditions as the collation and returning officers will contribute to the reduction of electoral fraud in Nigeria and enhance the credibility and transparency of elections. This is because the group members are not partisans and the commission requires sustainability of partisanship. On the issue of the parts of the country where non-Muslims dominate the provinces, the individuals employed by INEC must be above board and must have a proven track record as well as impeccable integrity. It is also essential to state that the *Hisbah* group can be deployed as security personnel during elections in Nigeria since the conduct of elections in Nigeria is based on generalized violence. However, this may require an amendment of electoral law to accommodate the deployment of the *Hisbah* personnel to conduct elections and monitor them.

***Hisbah* during the Classical Periods of Islam**

Prior to the discourse of history of *Hisbah* in Nigeria, it is important to examine the role *Hisbah* during the classical periods of Islam. The Western Orientalists like Schacht have argued that the concept of *Hisbah* emanated from agoranomos institution as practiced by the Romans. This opinion strengthened the idea of Gaudefroy – Demomynes which was put forward in 1939 (Joseph, 1965, 25). Schacht, therefore, proposed that the development of the institution of *al-Suq* to *Hisbah* took place during the Abbasid reign. However, these opinions seem to deny *Hisbah* as a legacy of Islamic civilization which later declines, as if it has ever existed at the early period of Islam as well as continuously applied after the demise of the Prophet.

Historically, all the Prophets of Allah practiced *Hisbah*. The assertion is hinged on the fact that they were all raised by Allah to command good and forbid evil (Yahya, 2019, 56-74). The Qur'ān 5: 79 unequivocally declared that the Israelites were cursed as a result of their insistence on the promotion of evil despite the warnings from their Prophets against the practice. The instances of Prophets Ibrahim, Musa, and Īsā, who implored their respective nations to desist from the worship of objects (Q21: 86-87, Q20: 97 and Q5:112), are incontrovertible evidence to justify our position that the practice of *Hisbah* originated from the early Prophets. In addition, Prophet Shu'ayb charged the people of Madyan, who

were dishonest businessmen who used to rob people on the highways and did not give full measures to people, to give up the sharp practices (Q7:85). The people of Lūt, who were heedless to the divine injunctions, were also forewarned before perversion (Yahya, 2019). Luqmānu'l-ḥakīm also exhorted his child to command good and forbid evil (Q31:7). On this note, Rashīd Riḍā (1990, 4/32) writes:

وقد جرت سنة الأنبياء والمرسلين والسلف والصالحين على الدعوة إلى الخير والأمر المعروف والنهي عن المنكر وإن كان محفوفا بالمكروه وكم قتل في سبيل الله من نبي وصديق فكانوا أفضل الشهداء

Invitation to the good, enjoinder of the kind, and forbiddance of evil was a custom of the Prophets, Messengers, the precursors, and the righteous people even if it is surrounded by misfortunes. How many Prophets and truthful people have been killed for the sake of Allah and they were the best martyrs?

It is noteworthy to state that the act was not institutionalized throughout their periods but it was practiced by the respective Prophets and promoted by those that believed in their missions. Prophet Muhammad (peace and blessings of Allah be upon him), however, reshaped the practice and provided the standard behavior. He took every step to put an end to fraudulent practices in an attempt to safeguard the rights of individuals against another, as well as against the government or the state. He also took every step to correct infamous acts in society. In the light of his *'ahādith*, it can be derived that it is the responsibility of the individual in the society to take an active role in the *Hisbah* according to his capacity. He once said in the hadith reported by Abu Sa'īd Al-Khudriyy: "He who sees detestable act among you should change it with his hand. If he cannot, he should change it with his tongue. If he cannot, he should change it with his heart and that is the weakest (level) of faith" (Muslim, 1995, 1/69).

In another *hadith*, he warned against abandonment of the *hisbah* duty and issued a stern warning about the evil consequence that awaited the defaulters. He remarked: "If some people commit sins and if there are other people who can correct them and still they do not do it, soon punishment from Allah will fall on them" ('Abū Dāwūd, n.d, 4/122).

The Prophet (peace be upon him) developed the institution in his life by matching his words with actions. He would visit marketplaces and give directives to the traders about standards of commercial transactions. Whenever he saw anybody involved in sharp practices, he would ask the person to abstain from such behavior. Muslim, Abu Dāwūd, Tirmidhi, and Ibn Mājah reported from Abu Hurayrah (may Allah be pleased with him) that

the Messenger of Allah (peace and blessing of Allah be upon him) passed by a pile of food and then put his hand in it until his fingers wetted. He then said: "What is this, O owner of the food?" He said: "It was wetted by rain, O Messenger of Allah." He said: "Would not you put it on top of the food so that people can see it. The one who cheats is not from us" (Muslim, 1995, 1/69).

The activities of *Hisbah* performed by the Prophet (peace and blessings of Allah be upon him) were not restricted to economic activities. Indeed, it cut across all human endeavors including religious, political, and social aspects of man. In the religious realm, the Prophet (peace and blessings of Allah be upon him) saw a man who observed prayer badly, by not bowing (*rukū'*) properly and pecking in his prostration (*sujūd*), and charged him to perform it correctly (Muslim, 1995, 297).

The Prophet also offered advice to 'Abdu'r-Rahman bn Samurah on the need for him to seek not a leadership position. He explained to him the merits and demerits of the action. From the report, it is clear that the activities of *Hisbah* also cover polity including peaceful conduct of election (Al-Bukhārī, 1422AH). However, the reputable name used to describe those who engaged in market supervision during the period of Prophet Muhammad and that of the rightly guided Caliphs is *Ṣāhibu's-Sūq* or *al-'amil 'alā's-Sūq*, meaning market supervisor. The term *Hisbah* was introduced after the first epoch of Islam as an umbrella name for those charged with the responsibility of maintaining law and order in society (Manāhij Jāmi'ati'l-Madīnah, n.d, 2/56.).

Ibn 'Abdil-Barr revealed that the Prophet appointed Sa'īd bn Sa'īd bn Al-'Ās (may Allah be pleased with him) to oversee a market in Makkah and 'Umar Ibn Al-Khattāb as *Muhtasib* in Madīnah (Ibn 'Abdil-Barr, 1992, 4/621). He also integrated women into the market supervision in the early days of Islam. For instance, Samrā' bint Nuḥayk al-'Asadiyyah (may Allah be pleased with her) used to tour the market to enjoin the good and forbid the evil, hitting the people with her whip (whenever necessary); a position she retained until her death during the reign of 'Umar ibn al-Khattab (may Allah be pleased with him) (Ibn 'Abdil-Barr, 1992, 1863). To encourage her more, Caliph 'Umar (may Allah be pleased with him) used to come to her workplace whenever he entered the market (Ibn 'Abdil-Barr, 1992, 1863).

The four rightly guided Caliphs also set an excellent example by dispensing *Hisbah* activities and appointing competent fellows for the supervision of markets. For instance,

Abubakr Aş-Şiddīq fought fiercely the wars of apostasy all in the name of enjoining good and forbidding evil (Markaz Buḥūthi'd-Dīn wa'l-Fiṭrah, 2018). He also condemned the practice of cutting the hair of women that was predominant in his period to show that Islam is antithetical to the practice (Markaz Buḥūthi'd-Dīn wa'l-Fiṭrah, 2018). He fought against false prophethood to protect faith and maintain decorum in the administration of people (Muslim, 1995, 99). His appointment as the successor of the Prophet was also premised on the principle of *Hisbah*. Without taking cognizance of the tenet, another person would have emerged. However, the companions who were not tolerant of the negligence of the principle stood their ground and elected him because they considered it an act of injustice to rally around another person different from him.

The *hisbah* also played an important role in the structure of society in the period of 'Umar bn Khaṭṭāb. It has been reported that he was the first caliph to assemble Muslims under the leadership of an Imam for the congregational observance of Tarāwiḥ prayer and the Sunnah is continuously appreciated by Muslims all over the world (Manāhij Jāmi'ati'l-Madīnah, n.d, 56). It is also reported that he once penalized a trader who had cheated in the business (Manāhij Jāmi'ati'l-Madīnah, n.d, 56). The nomination of 'Umar, as Caliph by Abubakr, was also hinged on the principle of *Hisbah*. Abubakr did not choose him based on affinity, or friendship but on religious interest. In other words, he was the most qualified companion who would encourage good and would not condone evils under his watch.

'Uthmān bn 'Affān and 'Alī bn 'Abī Ṭālib followed the steps of their predecessors in maintaining public order. It was reported that 'Uthman bn 'Affan appointed al-Harith bin al-Hakam as an enforcement officer at Madinah to supervise the business activities accordingly (As-Sayyid Ṭalhah, n.d). During that period, the appointed officers assigned to coordinate the activities of transactions at markets were known as '*Ummālu's-Sūq*. Caliph 'Alī bn 'Abī Ṭālib also warned fish sellers against the sale of rotten ones in the course of discharging *Hisbah* role (Barkindo, 2011, 65).

Interestingly, Umayyad Caliphs continued to develop the institution but it was not separated from the office of Caliphs and not made an independent institution during the period. Walīd bn Mālik was noted for supervision of the market to regulate the prices of commodities and prevent anomalies (Hizam Lutfi, 2022, 309). 'Umar bn 'Abdi'l- 'Azīz's reign was also meritorious for curbing moral decadence and arresting its causes. He fought hardly for uniformity in the measurement and weight in all his provinces. When he found it

necessary to appoint a man who would man the markets, he designated Sulaymān bn Yasār as *'āmilu's-Sūq* (Az-Zahbī, 1985, 4/445).

The institution of *Hisbah* continued to thrive during the Caliphate of Abbasid. The institution took a new shape and dimension. It was modernized and its scope became broader. It was well established and became known in the nook and cranny, especially during the period of Caliph 'Abu Ja'far Al-Manṣūr. Al-Manṣūr reformed the institution by shifting the markets of Baghdad areas from the city. He broadened it to cover the prevention of monopoly, hoarding, supervision of call to prayer, investigation of punctuality of judges, and hiring of specialists in relevant fields to increase productivity and professionalism in business skills (Arab Encyclopedia, n.d.)

The institution of *Hisbah* moved along with Muslims in the western provinces of Spain and North Africa and remained an integral part of the state even after the split of the Baghdad Caliphate. In addition, the office of *Muhtasib* was also an important department during the rule of Fatimids, Ayyubids, and Ottomans. However, Mughals replaced it with the office of Katwal with a more limited jurisdiction than the *Muhtasib* due to their own lax moral standards. During the Fatimids, the importance of the institution was felt in enforcement of the prescribed rules and regulations. Thus, the *muhtasib* was not only investigating marketplaces and determining the proper weights and measurements but also ensuring that there must not be overloaded items being carried out by the traders. More so, the scope of *muhtasib's* duties was also extended to the maintenance of the morality of the subjects so that the members could live peacefully in the society (Mohd Ab Malek Md Shah et al, 2013, 65).

However, the prestige of the *Hisbah* institution declined over a period of time, particularly during the early 10th/16th century in Mamluk reign of Egypt when the government was weak and the position *muhtasib* used to be obtained via graft and the office was held by those who lack requisites of *muhtasib*. The Ottomans restored the dignity of the *Hisbah* institution and widened its jurisdiction. In Ottoman administration, the office was also empowered to deal with levying dues and taxes on traders and artisans (Hamza ATEŞ, 2017, 26).

***Hisbah* in Nigeria**

Historically, the institution of *Hisbah* was operated as a major organ during the Sokoto Caliphate, established by Shehu Usman Danfodio in 1804. As the first commander

of the faithful, it was a duty not only to ensure peace and order but also to encourage people to cooperate with him in maintaining decorum in his domain. Thus, Shehu Usman found it compelling to adopt the policy of the Islamic political system to record breakthroughs in this world and hereafter. Thus, he appointed a *Muhtasib* (inspector or censor of morals) to take care of laws and orders throughout the caliphate (Tambari, 2021, 119). Shehu made it a law that the newly appointed *Muhtasib* declare all his assets before assuming the newly created office. He also unveiled that the *Muhtasib* will be responsible to the commander of the faithful who will be checking his assets periodically to guard against unlawful accumulation of wealth and other unethical behaviors. Shehu also proclaimed that unjustified earnings will be seized and deposited into the public treasury (Tambari, 2021, 119). Muhammad Julde, one of the trusted fellows of Sheikh Usmanu Dan Fodiyo, was therefore appointed as the first *Muhtasib* (Tambari, 2021, 120).

Muhammad Julde (1812-1855) however, served as *Muhtasib* for three Caliphs, from the period of Shehu Usmanu Dan Fodiyo to Aliyu Babba the successor of Shaykh Muhammad Bello. After his retirement due to old age, he was succeeded by Muhammad Mustapha (1858- 1881). *Muhtasib* Abdullahi (1881-1928) succeeded *Muhtasib* Muhammad after his death. Next to him was *Muhtasib* Ahmad 1928- 1947 (Tambari, 2021, 122). After his death, the position of *Muhtasib* was neglected and became vacant. The appointment was not made until the time of Late Sultan Muhammad Maccido. A former Grand Khadi of Sokoto state, Abdullahi Maccido was therefore appointed as *Muhtasib* on 20th August 2004. However, he disclosed that he was assigned no responsibility but to maintain and preserve the history of his forefathers.

Tambari (2021, 119) observed that every piece of bread and all other commodities bore the stamp and name of their respective manufacturers so that the bad products could easily be traced to their origin during the caliphate period. The Caliphate made this a requisite to guarantee the security and protection of the consumers. The production policy and other policies implemented in the Caliphate by the *Muhtasib* can lead one to conclude that fraud was reduced drastically in the Caliphate.

Moreover, *Muhtasib* is also used to regulate and control grain prices in the market. The prices were fixed and constantly reviewed. The purpose of the price control mechanism was to ensure that the economic interest of every citizen under the Caliphate was protected and it was done in such a way that the prices were agreed upon by both the producer and consumer (Murtala, 2009, 134). The *Muhtasib* were mandated to reprimand and punish those

who attempted to sell their products above the acceptable market prices. Such people would be flogged and forced to leave the trade and market completely. Consequently, the appointment of the *Muhtasib* contributed to the reduction of the problem of food scarcity and market instability (Murtala, 2009, 137). A reflection on the food situation in current Nigeria shows a lot of issues and challenges associated with the nonchalant attitude of the government toward the nature and operation of the grain trade.

Other responsibilities of *Muhtasib* in the Caliphate include inspection of schools, rental houses, farms, etc. The institution of *Hisbah* and the office of the *Muhtasib* continued to exist under the subsequent successors of Shehu Usmanu Danfodiyo, until the arrival of the colonial administrators in the Caliphate. Consequently, the institution of *Hisbah* in the Sokoto Caliphate was attacked indirectly by the colonial administrators through the strategic downsizing of Islamic law. The sub-systems that were Islamic were eliminated. Therefore, *Muhtasib* was not appointed for many periods because he had no role to play in the new style of administration (Tambari, 2021, 125). Also relegated is the institution of *Dan Doka* otherwise known as *Dongari* i.e. police officer. The head of the institution used to be referred to as *Sarkin Dan Doka* and he used to be in charge of keeping the suspected trials. He was also responsible for punishing convicted persons (Babatunde, 2014, 27). In other words, he also used to discharge the functions of *hisbah*.

However, the reintroduction of Islamic law in the twelve states of northern Nigeria between 1999 and 2000 underlines the salience of Islam in the politics and governance of the region. *Hisbah* was established to enforce a distinctive Islamic government. It tackles the problems of community security in a different way, abolishes the business and consumption of beer, restricts sex work, the segregation of the sexes in public spaces, and the policing of a moral order based on Shariah (Rasheed, 2011, 71). Its enforcement in the domain, in other words, represented official vigilantism based on the teachings of Islam.

Underscoring the importance of *Hisbah*, the Supreme Council for Islamic Affairs in Nigeria (NSCIA) described the groups as indispensable vehicles for the proper implementation of Islamic law. The *Hisbah* groups already established are meant to complement the police in their statutory duties and are not its rivals. But this can only be achieved if the mentality and orientation of the police force are refocused to one of service away from extortion and tyranny (Baker, 2004, 175). Peters and Barends also held that it

became imperative as the Nigerian police lacked the prerequisite training, identity, and mandate (Barends, 2001).

Thus, Zamfara became the first state in Nigeria to reintroduce Islamic law during the administration of Ahmad Sani Bakura, the former Governor of the state. Having observed the apathy of the federal police force in enforcing Islamic law in Nigeria, he decided to establish *Hisbah* as a security agent enforcing Islamic law (Mustapha and Ismail, 2016). Subsequently, the Zamfara *Hisbah* Commission was established under the Zamfara State *Hisbah* Commission (Establishment) Law 2003 passed by Zamfara State House of Assembly in 2003 (Okemuyiwa, 2016). The commission sets up *Hisbah* guidelines and procedures. It also highlights the functions, jurisdiction, roles, aims, and objectives of the Commission and others. Section 6 of the Commission provides: The Commission shall have the following powers: (1) to monitor the proper implementation and application of laws and bylaws made by the State or Local Government Councils. (2) to ensure proper compliance with the teachings of Islamic law throughout the State. (3) to monitor the daily proceedings of Sharia Courts to ensure proper compliance with Shariah 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. Pursuing the implementation of their functions, several arrests have been made and culprits have been brought to the book.

Governor Rabi'u Musa Kwankwaso also launched *Hisbah* formally in 2000 as an institution aiming to control crime and maintain social order enjoined by Islam. In 2003, Governor Ibrahim Shekarau (2003-2011) transformed the Kano *Hisbah* into a state agency relying on Section 38, sub-section 1 of the 1999 Constitution of the Federal Republic of Nigeria (Nigeria 1999:18): 'Every person shall be entitled to freedom of thought, conscience, and religion, including the freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice, and observance'. The Shekarau administration appropriated this legal provision and passed the Kano State *Hisbah* Law. Kano *Hisbah* became a government institution with a new name, Kano State *Hisbah* (KSH). The creation of KSH allowed thousands of volunteers to become public workers under the state government payroll. It led to the mass employment of people with religious training and activist backgrounds to manage the moral reform project (Rasheed, 2005, 55).

The establishment was part of the Kano State government's effort to implement Sharia and a response to curb the pervasive insecurity and rapidly growing social anomie

among youths. The enforcement of Shariah was viewed as a return to Islamic values to foster societal reorientation and redress moral decadence. It led to social transformation, economic ethics, and crime reduction. It has raised fundamental concerns about the intricacies of security and redefines crime and criminality in metropolitan Kano.

The functions of the *Hisbah* Board include: i. Assisting police and other security agencies in the areas of prevention and reporting of offenses ii. Encouraging charitable deeds (payment of *Zakah*, etc) iii. Advising against the acquisition of usury, hoarding, and speculation iv. Ensuring orderliness at religious gatherings (for example in mosques during Salat, distribution of iftar meals provided by the state government during Ramadan, hajj operations, and public functions) v. Encouraging general cleanliness and environmental sanitation vi. Reconciling civil disputes between people and organizations, where parties are willing. vii. Assisting in traffic control viii. Providing emergency relief operations and assistance in any other situation that requires the involvement of *Hisbah*, be it preventive or detective, and handling non-firearms for self-defense, like batons and other nonlethal civil-defense instruments (Alamu, 2021).

Like the Nigerian Police Force, the organizational structure of KSH is very elaborate. The State *Hisbah* Command is the highest body headed by a Commandant General. The Operation Department has 13 units headed by a Deputy Commander General. These include patrol, training and medical, general complaints, sentry, ICT, monitoring and evaluation, intoxicant, and anti-*Bara* (anti-street begging) units. This department is generally responsible for field activities of *Yan Hisbah*, such as the surveillance of public places, the enforcement of Shariah canons, and the arresting of suspected violators. The Intelligence and Crime Detection Department is responsible for intelligence gathering and works with the Operation Department to prevent crimes and arrest suspects. The *Da'wah* Department organizes preaching sessions and similar events that invite people to Islam. The Guidance and Counselling Department is saddled with the responsibility of settling social disputes such as marital, family, intra-religious, communal, and debt. The Enlightenment Department informs people about the activities of the *Hisbah* in the state. The Special Services Department conducts tasks considered 'special', or anything that might arise that does not fall under the scope of any of the seven other departments, such as humanitarian services. The Women's Department comprises all women in *Hisbah* Corps (Musa, 2022).

The achievements of *the Hisbah Corps* of Kano Municipal Local Government include the settlement of (marital and civil) disputes of about 200 people between 2003 and 2004; the stoppage of *Garaya/goge* (traditional music) and its related activities (traditional magic, entertainment by prostitutes and homosexuals), stoppage of betting and car racing among youths was stopped; collaboration with National Drug Law and Enforcement Agency (NDLEA) in the arrest of drug dealers and drug addicts, seizure of over 600 cartons of beer, massive recruitment of 9,000 trained guards including 900 women (Rasheed, 2011).

It is important to state that Kano and Zamfara *Hisbah* have their foundations in state law and benefit from state funding; Gombe *Hisbah* has no legal backing and is funded by volunteers; Borno *Hisbah* exists only on paper (Mustapha, 2016).

It is imperative to state that the awareness created by Muslim scholars on the importance of institutionalization of *Hisbah* continues to resonate in the minds of Muslims the yearning call for establishment of religious body. For instance, Shaykh Ya'qub Musa, a renowned scholar in Katsina State, recently called on the state government to establish a *Hisbah* body in the state. He submitted that one of the virtues of its creation in the state is that it will reduce menace of social vices and enhance good moral training (Usman, 2023).

However, Punch Editorial (2020) unveiled that two events show serial violations of human rights by *Hisbah* group. One of the events reported in the Punch is the Kano state *Hisbah* operatives shaving the hair of young men arrested for donning stylish hairstyles that failed to conform to the dictates of Islam. The daily editorial believed that the group infringes on fundamental rules spelled out in Chapter IV of the constitution such as personal liberty, freedom of thought, conscience and religion, expression, and freedom from discrimination.

It is also alleged that the operation of *Hisbah* is marred by hypocrisy, selective implementation, and frivolity in Kano, citing the case of the son of Former President, Muhammad Buhari, marrying the daughter of the Emir of Bichir during which secular songs that contained vulgarity were played without any arrest (Lukman, 2022).

Roles of *Hisbah* in the Conduct of Fair and Credible Elections in Nigeria

It is well known that several billions of Naira has been spent on the conduct of elections in Nigeria especially on the purchase of sophisticated materials that give no room for rigging and other electoral malpractices. Yet, Nigerians are still dissatisfied with the outcome of the election because of its incredibility.

In 2007, INEC insisted on 60.5bn for the year polls and stated that any reduction by one kobo would not guarantee a free, fair, and credible election. On August 12th, 2010, the House of Representatives approved 87.7 billion for the 2011 general election with a charge that INEC should not fail to conduct a credible election in the country. In 2015, 108.8b was spent to run the 2015 election even though the Country has many basic infrastructural challenges (Opeyemi, 2023). In addition, 254 bn Naira was also budgeted for the 2019 elections. According to the incumbent Chairman of INEC, the cost of elections in Nigeria in 2023 is 305bn Naira. He revealed that the cost of logistics, highly secured ballot papers, and allowances for personnel are responsible for the amount spent on conducting elections in Nigeria. Decrying the humongous amount that the conduct of election is costing the country, Prof. Mahmood Yakubu said:

Ballot papers are simply on A4 sheets in France but here our ballot papers have the same security features as our currency and they are guarded like our currency. All the sensitive materials are kept at the vaults of the Central Bank of Nigeria (CBN) in Abuja and even for staggered elections like Ekiti and Osun, they are also moved days to the state capitals under the same intense security like bullion van. All these things cost a lot of money in logistics, planning, and implementation. In other parts of the world, elections are done in a simplistic and less costly way. In Nigeria, the election is done as if the whole country has to suspend all its activities to hold elections (Tope, n.d.).

It can be inferred from the above statement of the INEC Chairman that there is a need to overhaul the manner of conducting elections especially a downward review of the money budgeted for its success. It can also be deduced that the money being spent or budgeted can be channeled to provide basic needs to the citizens and utilized to fix some infrastructures. The role and relevance of *Hisbah* is not only to reduce cost but also to strengthen the logistics and manpower needed for the conduct of credible elections. For instance, security provisions are not adequate, despite the combination of the Police, Army, and Paramilitaries. *Hisbah* can function to add up security outfits for elections. Also, *Hisbah* will undoubtedly strengthen and enhance effectiveness in the security assignment, being an indigenous people who grew up in the neighborhood. They have a better understanding of the terrain than the security agents who are strangers at their place of assignment.

However, a glimpse at historical facts about *hisbah* right from its inception is an indication that it is a viable mechanism needed for the promotion of justice among the citizens. The act of enjoining good and forbidding evil reduces immoralities and ensures justice to all irrespective of the status of the people. The fact that Prophet Muhammad (SAW)

and his caliphs involved themselves in the act of *Ihtisab* is proof that *Hisbah* is a potent tool that aims at contributing to the maintenance of justice to the highest standards.

It is imperative to state at this juncture that the *Hisbah* was adopted in the election, nomination, and selection of the rightly guided caliphs. The succeeding generations, that viewed *hisbah* as an effective mechanism to correct anomalies, were able to keep justice and to curb malpractices to a greater degree as discussed earlier.

Therefore, the *Hisbah* police, who had fulfilled the conditions laid down by Islamic law before being appointed as *Muhtasibs*, can assist Federal police and other security agencies in the areas of collation of election results, prevention of electoral fraud and malpractices, especially in Shariah-implementing states. The Shariah-implementing states can adjust the social services functions of the *Hisbah* to include guarding against electoral malpractices and invoke section 38 of the 1999 constitution to prove their points beyond reasonable doubt since the provision states that every person shall be entitled to freedom of thought. Thus, the Shariah-implementing states would contend that if *Hisbah* is given the mandate, the *Hisbah* police will dispense justice, arrest the situation of spending a humongous amount on elections, and curb electoral malpractices since they see themselves as representatives of God. They will also use their coercive disciplinary functions to monitor vote buying and manipulation of electoral results. They will use intelligence, investigation, and operation units to combat illegal activities of possession of ballot boxes, stuffing of ballot boxes, falsification of election results, underage voting, illegal printing of forms used for collection and declaration of election results, and other electoral malpractices during the electioneering period when. The INEC will also amend electoral act to accommodate engagement of *Hisbah* group just like Central Bank of Nigeria was allowed to debut non-interest banks.

It was when this institution lost its value that the contemporary Muslim communities suffered from all sorts of evil, ranging from negligence of their major obligations to rampant cheating and fraud, as a result compromising justice. This marginalization and negligence of this institution, has resulted in Muslim countries ranking higher on the secular list of corruption. If the institution is allowed to take its course, the issue of ballot papers having the same security features with our money will be forgotten and the humongous budget for election will be reduced drastically.

Conclusion

This paper has examined *Hisbah* as one of the important institutions introduced by Islam to arrest vicious acts and propagate decent behavior in society. It unfolded that the historical antecedents of its utilization in the classical periods of Islam ensured that sanity and orderliness were maintained in public life. It uncovered that the institution played a noticeable role during the Sokoto caliphate in curbing social vices and continues playing indispensable roles in some parts of Northern Nigeria where Islamic law is partially adopted as a state law. It revealed that the efficiency of the institution in stemming social menace in all the periods mentioned in the paper is an indication that it is a viable institution that can be engaged as collation officers and security agents during the conduct of election in Nigeria since it has been used in the process of selecting and electing some celebrated leaders in the history of man.

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