

**THE ISSUES AND CHALLENGES OF
IMPLEMENTATION OF *HISBAH* IN
ZAMFARA STATE IN NIGERIA**

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UNIVERSITI SAINS MALAYSIA

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IMPLEMENTATION OF *HISBAH* IN
ZAMFARA STATE IN NIGERIA**

by

ABUBAKAR RUFAI SULEIMAN

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TABLE OF CONTENTS

ACKNOWLEDGEMENT	ii
TABLE OF CONTENTS	iv
LIST OF TABLES	ix
LIST OF FIGURES	x
LIST OF ABBREVIATIONS	xi
LIST OF GLOSSARYS	xii
LIST OF APPENDICES	xiv
ABSTRAK	xv
ABSTRACT	xvii
CHAPTER 1 INTRODUCTION	1
1.1 Background to the Study.....	1
1.2 Statement of the Problem.....	4
1.3 Research Questions	6
1.4 Objectives of the Research:.....	6
1.5 Scope of the Research	7
1.6 Literature Review.....	8
1.6.1 Classical Literature on <i>Hisbah</i>	9
1.6.2 Some of the Modern Literature on <i>Hisbah</i>	15
1.7 Research Methodology	19
1.7.1 Data Collection	20
1.7.2 Method of Data Analysis	21
1.8 Limitations of the Study.....	23
1.9 The Structure of the Thesis	24

CHAPTER 2	PERSPECTIVE OF <i>HISBAH</i> IN ISLAM	26
2.1	Introduction.....	26
2.2	The Concept of <i>Hisbah</i> in Islam	26
2.2.1	The Literal Meaning of the Term <i>Hisbah</i>	27
2.2.2	The Technical Meaning of the Term <i>Hisbah</i>	28
2.3	Legal Position of <i>Hisbah</i> in Islam	33
2.3.1	Al-Quran	33
2.3.2	Hadith of the Prophet	36
2.4	Historical Account on <i>Hisbah</i> in Islam	39
2.4.1	<i>Hisbah</i> during the period of the Prophet (Peace be Upon Him)	40
2.4.2	<i>Hisbah</i> in the Period of the Four Pious Caliphs	44
2.4.3	<i>Hisbah</i> during the Umayyad Caliphate (661-750AD/41-132AH)	48
2.4.4	<i>Hisbah</i> under Ottoman caliphate (1301-1922).....	50
2.4.5	<i>Hisbah</i> under the Sokoto Caliphate (1804AD-1903AD)	52
2.5	Major Functions of <i>Hisbah</i> Institution	55
2.6	Roles of <i>Muhtasib</i> in Crime Prevention.....	56
2.7	Concept of Crime in Islam.....	63
2.7.1	Literal meaning of crime in Islam.....	63
2.7.2	Technical meaning of crime in Islam.....	63
2.8	The <i>Muhtasib</i> 's strategies in preventing crime in Islam	67
2.8.1	Sensitization (enlightenment)	67
2.8.2	Regulation	71
2.9	Quality of <i>Muhtasib</i> in Islam	75
2.10	Important of <i>Hisbah</i> in Islamic Government	80

CHAPTER 3	HISTORY OF <i>HISBAH</i> IN ZMAFARA STATE, NIGERIA	83
3.1	Introduction	83
3.2	Brief History of Nigeria and its Legal System.....	84
	3.2.1 Customary Law	90
	3.2.2 Islamic Law	91
3.3	The Position of <i>Sharia</i> during the Pre-Colonial Era.....	95
3.4	Brief History of Zamfara State.....	99
	3.4.1 Religion.....	101
	3.4.2 Population	102
3.5	The Emergence of <i>Hisbah</i> in Zamfara State	102
	3.5.1 Paramount Legislations in the Existence of Zamfara <i>Hisbah</i> Commission	103
	3.5.1(a) The Law that Established Zamfara <i>Hisbah</i> Commission.....	104
	3.5.1(b) <i>Sharia</i> Criminal Procedure Law 2000.....	104
	3.5.2 Departments of <i>Hisbah</i> Commission and their Functions	107
	3.5.3 Administrative Structure of Zamfara State <i>Hisbah</i>	112
3.6	<i>Hisbah</i> Supporting Bodies	113
	3.6.1 Zamfara State Anti-Corruption Commission.....	113
	3.6.2 Zamfara State Public Complaint Commission.....	115
	3.6.2(a) Procedures for Receiving Complains.....	116
	3.6.3 Ministry for Religious Affair	116
	3.6.4 The Role of Judiciary	117
3.7	Jurisdiction of Zamfara <i>Hisbah</i> Commission	118
3.8	Types of Crimes handle by Zamfara <i>Hisbah</i> Commission	120
	3.8.1 Immoral act in businesses	121
	3.8.2 Fornication	122
	3.8.3 Alcoholism.....	127

3.8.4	Theft: (<i>Sariqah</i>)	131
3.8.4(a)	Prohibition of Theft in Islam.....	131
3.8.4(b)	Theft (<i>Sarigah</i>) in the Zamfara <i>Shari'ah</i> Penal Code	132
3.8.5	Accusation of Adultery (<i>Qadhf</i>)	132
3.8.5(a)	Accusation of adultery (<i>qadhf</i>) in the <i>Shari'ah</i> Code of Zamfara State.	133
3.9	Zamfara <i>Hisbah</i> Commission Laws Provided to Prevent Crime	137
3.10	Strategies of <i>Muhtasib</i> in the Prevention of Crime in Zamfara State.....	140
3.10.1	Stage 1 Preventive by Sensitization.....	141
3.10.2	Second Stage (Preventive by Regulations)	142
3.10.3	Third Stage (Preventive by Force).....	142
CHAPTER 4	CHALLENGES FACING ZAMFARA STATE	
	<i>HISBAH</i> COMMISSION	145
4.1	Introduction.....	145
4.2	Challenges of <i>Hisbah</i> around the World	145
4.3	Nigerian <i>Hisbah</i> Problem	152
4.3.1	Kano State.....	156
4.3.2	Zamfara State (Study Area)	158
4.3.2(a)	External Problems	161
4.3.2(b)	Internal Problems	168
4.4	Summary of the Chapter	173
CHAPTER 5	FINDINGS, CONCLUSION AND	
	RECOMMENDATIONS	174
5.1	Introduction.....	174
5.2	Research Findings.....	174
5.2.1	Position of <i>Hisbah</i> in Zamfara State	174
5.2.2	Crime preventing strategies adopted by Zamfara State <i>Hisbah</i> commission.	176

5.2.3 Challenges faced by Zamfara <i>Hisbah</i> Commission.	177
5.3 Conclusion	178
5.4 Recommendations.....	178
5.5 Direction for Further Research.	186
REFERENCES.....	188
APPENDICES	

LIST OF TABLES

	Page
Table 1.1	Summary of the Data Analysis 22
Table 3.1	Recorded Crime in Zamfara by <i>Hisbah</i> (2001-2019)... 120
Table 3.2	Numbers of Crime and Sensitization Recorded by the Commission from 2003 – 2019 134

LIST OF FIGURES

	Page
Figure 1.1	Thesis Structure 25
Figure 3.1	Map of Nigeria..... 85
Figure 3.2	Nigerian Judicial Structure 92
Figure 3.3	Map of Zamfara 101
Figure 3.4	Structure of the Administration of Zamfara State <i>Hisbah</i> Commission 112
Figure 3.5	Crime Rate in Zamfara 120
Figure 3.6	Stage of Preventing Crime in by Zamfara <i>Hisbah</i> commission..... 144
Figure 4.1	Challenges of Zamfara State <i>Hisbah</i> commission 160

LIST OF ABBREVIATIONS

ACG	Assistant Commander General
CG	Commander General
COSIS	Conference of Sharia Implementing States
CPC	Consumer Protection Council
GC	Guidance and Counseling
NAFDAC	National Food and Drug Administration and Control
NDLEA	National Drug Law Enforcement Agency
OC	Officer in Charge
OPS	Operations
RD	Research and Documentation
SON	Standard Organization of Nigeria
SS	Special Services

LIST OF GLOSSARYS

<i>Muhtasib</i>	the one engaged in <i>Hisbah</i> activity
<i>Ihtisab</i>	the activity of commanding good and forbidding Evil
<i>Hisbah</i>	Commanding Good and forbidding Evil/ the institution that does that
<i>Ijtihad</i>	Exertion of effort to arrive at a legal solution to a problem
<i>Ma'ruf</i>	Good or Right
<i>Munkar</i>	Evil/Wrong
<i>Al-amr bil ma'ruf wannahy anil Munkar</i>	Commanding Good and Forbidding Evil
<i>Maratibul-Ihtisab</i>	Degrees of <i>Hisbah</i> (activity)
<i>Taklif</i>	Legal responsibility
<i>Khilafah</i>	Caliphate, statehood or the office of the head of state
<i>Hadd</i>	(<i>pl. Hudud</i>) Specific offences
<i>Imam</i>	The head of state
<i>Wilayah</i>	Government agency
<i>Zakah</i>	Compulsory alms
<i>Amir</i>	Governor or commander
<i>Diwan</i>	Ministry
<i>Imarah</i>	Emirate, state or governorate
<i>Sadaqat</i>	Charity
<i>Qisas</i>	Law of retaliation
<i>Ta'zir</i>	Discretionary punishments
<i>Ibadat</i>	Rituals
<i>Mu'amalat</i>	Transactions
<i>Adalah</i>	Justi

<i>Haram</i>	Prohibited
<i>Ummah</i>	Nation; used to refer to the Muslim community or nation
<i>Fard ain</i>	Individual obligation
<i>Fard kifayah</i>	Collective obligation
<i>Khulafa 'ur Rashidun</i>	the four rightly guided Caliphs
<i>Mujtahid</i>	The one who exercises <i>Ijtihad</i>

LIST OF APPENDICES

- Appendix A Interview Checklist form for Zamfara *Hisbah* Officials
- Appendix B Interview Checklist form for Security Agencies (Police, NDLEA, NSCDC) in Zamfara State
- Appendix C Interview Checklist form for Associations (Hoteliers, Transport and Youth Association in Zamfara State)
- Appendix D Letters

ISU DAN CABARAN PELAKSANAAN *HISBAH* DI NEGERI ZAMFARA NIGERIA

ABSTRAK

Menyeru kebaikan dan melarang kejahatan adalah inti dari institusi *Hisbah* dalam Islam. Walaupun begitu, sejarah dan perundangan institusi *Hisbah* menunjukkan bahawa ruang lingkungannya tidak pernah tetap. Masyarakat Islam berbeza dalam komposisi dan kedinamikan dalam menghadapi pelbagai jenis masalah. Oleh itu, sifat dan langkah-langkah yang diambil oleh pegawai-pegawai *Hisbah* sentiasa berubah. Penubuhan *Hisbah* di Zamfara bukan tanpa beberapa bentuk penentangan. Selalu ada dakwaan oleh pelbagai pihak bahawa *Hisbah* di Nigeria pada umumnya dan di Zamfara khususnya tidak berperlembagaan sehingga menjadikan kegiatannya sebagai haram. Untuk memburukkan lagi senario institusi *Hisbah*, seringkali ada dakwaan mengenai perlakuan buruk pegawai *Hisbah* dan ketidakupayaan mereka dalam menjalankan tugas. Untuk mengkaji dakwaan tersebut, pertama-tama kajian ini akan mengetengahkan konsep *Hisbah* dalam Islam. Setelah itu, kedudukan *Hisbah* di Zamfara berdasarkan Perlembagaan Nigeria dan undang-undang lain yang relevan akan dinilai. Kajian ini juga akan mengenal pasti strategi yang dilaksanakan dan cabaran yang dihadapi oleh institusi *Hisbah* dalam mencegah jenayah di negeri Zamfara. Untuk mencapai objektif di atas, kajian ini akan menggunakan beberapa metodologi pengumpulan data dan analisis data yang relevan. Untuk pengumpulan data kajian ini akan menggunakan kaedah penyelidikan perpustakaan dan kaedah temu bual. Data penyelidikan perpustakaan dikumpulkan dari berbagai sumber yang merangkumi kitab suci Al-Quran dan tafsirannya, koleksi hadis dan kitab-kitab fiqhnya, beberapa tulisan klasik dan moden mengenai *Hisbah* dalam bahasa Arab dan

Inggeris, buku dan artikel undang-undang Nigeria yang relevan, dokumen kerajaan, laporan undang-undang dan lain-lain. Untuk temu ramah, seramai lapan orang responden dari pengurus *Hisbah*, agensi keselamatan kerajaan, ahli akademik dan lain-lain. Semua data yang dikumpulkan dianalisis menggunakan kaedah analisis tematik. Hasilnya menunjukkan bahawa institusi *Hisbah* tidak asing dengan perlembagaan dan beberapa perundangan lain yang berkaitan. Kerangka *Hisbah* dalam mencegah kemunkaran di Zamfara termasuklah menimbulkan kepekaan, peraturan, dan penangkapan dan serahan tertuduh kepada badan keselamatan. Oleh itu, kerajaan perlu mengukuhkan institusi *Hisbah* dengan lebih berkesan pada masa akan datang.

THE ISSUES AND CHALLENGES OF IMPLEMENTATION OF *HISBAH* IN ZAMFARA STATE IN NIGERIA

ABSTRACT

Enjoining right and forbidding evil is the crux of the institution of *Ḥisbah* in Islam. Nevertheless, historical and juristic studies of the institution of *Ḥisbah* show that its scope has never remained fixed. The Islamic societies differed in their composition and complexities and faced different kinds of problems. Therefore, the nature of the steps taken by the *Ḥisbah* functionaries continued to change. The establishment of *Ḥisbah* in Zamfara state was not without some forms of oppositions. There have been always claims by various quarters that *Ḥisbah* in Nigeria in general and in Zamfara is unconstitutional thus render its activities as illegal. To make the scenario worse for *Ḥisbah* institution, there have always been claims on the misbehavior of the *Ḥisbah* personal and their incompetency in carrying out their duties. To examine those claims, this study will first highlight the concept of *Ḥisbah* in Islam. After that the position of *Ḥisbah* in Zamfara state in the light of the Nigerian Constitution and other relevant legislations will be evaluated. This study will also identify the strategies Zamfara *Ḥisbah* commission adopted in preventing crime in and the challenges facing Zamfara *Ḥisbah* commission in preventing crime in Zamfara state. To achieve the abovementioned objectives, this study will use some relevant data collection and data analysis methodologies. For data collection this study will use both library research method and interview method. The library research data was collected from the different sources which include the Holy *Qur-an* and its exegesis, hadith collections and its *sharh*, *fiqh* books, some classical and modern writings on *Ḥisbah* in Arabic and English, relevant Nigerian law books and articles, relevant government

documents, law reports etc. whether in the form of printed materials, e-books, e-journals, official web site etc. For interview, Eight (8) respondents from the managers of *Hisbah*, Security agencies, and associations from the state e.g.: Hoteliers, Traders, Transporters, etc. All data collected are analyzed using the thematic method of analysis. The results show that the *Hisbah* institution is not alien to the Nigerian constitution and some other relevant legislations. The framework of *Hisbah* in preventing crime in Zamfara consists of sensitization, regulation, and by force/hand over to the security agencies. Therefore, the government should empower the *Hisbah* institutions to enable them to play their role more effectively in the future.

CHAPTER 1

INTRODUCTION

1.1 Background to the Study

Hisbah or otherwise called (*lhtisab*) could be traced back to the foundations and history of Islamic civilization to mean “the art of prohibiting what is wrong and advocating what is right” according to the laws and order of the holy Quran. It is socially considered as a compulsive duty or responsibility to be executed by those who wield certain authorities as collective responsibilities as it is fard *al-kifayah*. Muslim societies had experienced two lines of performance of this obligation –individual and institutional, or private and governmental. Whether government or private, *Hisbah* is the only religious institution that is responsible and entrusted by the government to enforce the commanding and forbidding of what is right or wrong. The *Hisbah* therefore are charged with the moral and religious responsibilities of enforcing laws related to material, spiritual hygienic commercial, educational and prevention of crimes that are widespread in each society or community bounded by Islamic laws.

Many scholars have defined and construed what *Hisbah* is according to their world views, but of all the definitions given by various scholars, that of Al-Mawardi is considered the best as he defined *Hisbah* as an art of commanding the right when it is performed negligibly and prohibiting the wrong when its performance is formally discouraged¹. *Hisbah* could generally be attributed to the basic concepts of *al-amr bi al-ma'ruf wa al-nahy 'an al-munkar*. Based on the writing of various pious Islamic scholars.

¹ Mawardi, AM.H. *Al-Ahkamus Sultaniyyah wal wilayatud-diniyyah. Tawfiqiyyah* press, Cairo, chapter 20, P406-430

The *Muhtasib*'s foundation that orders *Al amr bi al ma'uf* (which is the performance of what is right and *Wa al nahy 'an 'al munkar* (which is the discouraging of what is wrong) has strongly been affected by the suppressor of *munkar* which is the *al-nahy an-al munkar*. Therefore, making the role of the principle being the promoter of *ma'ruf* to be overshadowed and excluded.

Therefore, this research explores the image construction of prohibiting what is seen as wrong, *al-nahy an al-munkar*.

Ensuring that peace is maintained, and the security of the society is ensured is one of the basic objectives of *Hisbah*. This is attained usually by discouraging the rampant widespread of crimes which are committed through breaking of the rules enshrined by Allah, his rights and interests. *Hisbah* also often carries that function of public sensitization of the holy Qur'an, Allah says:

كُنْتُمْ خَيْرَ أُمَّةٍ أُخْرِجَتْ لِلنَّاسِ تَأْمُرُونَ بِالْمَعْرُوفِ وَتَنْهَوْنَ عَنِ الْمُنْكَرِ وَتُؤْمِنُونَ
بِاللَّهِ وَلَوْ أَمَّنَ أَهْلُ الْكِتَابِ لَكَانَ خَيْرًا لَهُمْ مِنْهُمُ الْمُؤْمِنُونَ وَأَكْثَرُهُمُ الْفَاسِقُونَ²

” You are the best of the nations raised up for (the benefit of) men; you enjoin what is right and forbid the wrong and believe in Allah; and if the followers of the Book had believed it would have been better for them; of them (some) are believers and most of them are transgressors”.

Absence of an effective institution of *Muhtasib* threatens the moral fabric of a society. Mere prohibition of an offence by the government or any other authority does not guarantee the compliance of the public. Instead it is the realization of the (existence of Allah and the hereafter) that acts as a deterrent, which is the *Muhtasib* primary assignment in the Islamic government. Nevertheless, in order to ensure the effectiveness of Allah's prohibitions there is a need for sensitization, regulation and

² A'l-Imran (3): 110.

the enforcement of punishments that guarantee the effectiveness of such prohibitions.

The Qur'an says:

مَنْ يَعْمَلْ سُوءًا يُجْزَ بِهِ وَلَا يَجِدْ لَهُ مِنْ دُونِ اللَّهِ وَلِيًّا وَلَا نَصِيرًا³

“Whosoever works evil, will have the recompense thereof, and he will not find any protector or helper besides Allah.”

It was agreed unanimously by Muslim scholars that one of the most cordial duties of *al Muhtasib* is the sensitization of the public to deter from the committing of crimes, the reformation of those who commit offences and the suppression of evil implications caused by crimes.

In Nigeria, *Hisbah* was first introduced in the Sokoto Caliphate by (*Amir al-Muuminin*) Sheikh Usman ibn Fodio who ruled the Sokoto caliphate from 1804 to 1815⁴. During his time as caliph, Usman ibn Fodio paraded himself to execute the *Hisbah* in person until the time the governors (who are the Emirs) were also encouraged and compelled by the caliph to also enforce the *Hisbah* in their emirates⁴, the Sokoto caliphate rises up to end of the 19th Century before it fall as a result of the conquest launched on the caliphate by the Europeans colonialist in 1903. The whole *Sharia* system was abolished and replaced with constitutional powers by the colonial masters⁵.

However, as democracy flourished in the country in the 1999 a call was made to restore the *Sharia* law by many individuals. As the pressure for restoration become intense in many States (accounting for about 12 of them to be precise) readopted the

³ An-Nisa (4): 123

⁴ Ibrahim Y.Y (1991), *Sharia and Muslim in Nigeria: Fisbas media service publication*. P. 25.

⁵ Islahi, A. A. (2014). *History of Islamic Economic Thought: Contributions of Muslim Scholars to Economic Thought and Analysis*. Edward Elgar Publishing. P. 84.

Sharia into their legal system by the provision of the federal republic of Nigeria as contained in the section 38 (1) of the 1999 Constitution of the country

“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 observance.”⁶

The intense demand from the *Ulama* together with the constitutional provision warranted the reintroduction of *Sharia* law specifically in the North Western region of the country. Majority of the North Western States are Muslim dominated as they share common social, historical, traditional and cultural norms of Islam. These States adopted these norms with the hope that *Sharia* would alley all forms of crime and immorality which negatively affect the growth of a moral society. Of the Northern States, Zamfara State was the first to accept the practice of *Sharia* among her contemporary Northern States.

1.2 Statement of the Problem

With the continuous struggle of the people to have an ordered life that will guide them towards a morally sound society, the question and demand of the authority to maintain the execution of such order is not out of place. This is due to the fact that force had to be present to sensitize and remind people about the order and whether they are following it or not. This brings us to the vitality of encouraging what is right and prohibiting what is wrong. The institution responsible for such was established for more than ten decades with an outlined set of functions and laid out responsibilities (known as the *Muhtasib*) despite the establishment, it was understood that there was

⁶ Nigeria constitution 1999 as amended.

no very fixed scope for the institution as to the kinds of order to execute. This is because of the multifaceted problems experienced by Islamic societies based on their diverse compositions. This is evident as even normal conventional societies are never dynamic. Because of this dynamism, the *Hisbah* never operates statically and therefore employs dynamic injunctions too with endless changes overtime. Thus, a need to explore the concept of “Hisbah” in Islam is necessary.

When *Hisbah* was introduced and established in Zamfara State, it got confronted with barrage of criticisms and oppositions. These obstacles faced include the fact that the federal government labeled it as illegal just few months after it was introduced to the State.⁷ Therefore, it is of paramount importance for one to truly understand the stand of the institution in the constitution of the Federal Republic of Nigerian constitution.

It was lamented by the *Hisbah* Chairman of the State on the negative reactions experienced by the *Hisbah* personnel from the people and similarly, lots of complaints were reported by the people⁸. The Chairman gave the public the privilege of reporting any *Hisbah* official found guilty in the line of duty or misbehaving. The recruitment process by which the *Hisbah* officials were brought into service is through their traditional leaders who will forward the names of the candidates to be recruited to their State governments. The *Hisbah* recruits include very few with formal education and lots more with no formal education, but there are some teachers and people versed in Islamic law among the *Hisbah*, the majority are young men with a low level of formal education, no background in law, and no training in law enforcement or procedures for

⁷ Ayodele Toafik Ogundele,” Between *Hisbah*, FG and Terrorism,” retrieved from <http://www.gamji.com>. Accessed on 12/12/2018.

⁸ Nigerian Newspaper (*Daily trust* of 12 December,2018)

arrest, investigation, or gathering of evidence. This shows that there is problem in the strategies of which *Hisbah* adopted in preventing crime which need to be addressed.

1.3 Research Questions

The following are the set of questions that were formulated to be answered by this research

1. What is the concept of the institution of *Hisbah* in Islam?
2. What is the position of *Hisbah* in Nigerian Constitution?
3. What are the strategies Zamfara *Hisbah* commission adopted in preventing crime in Zamfara?
4. What are the challenges facing Zamfara *Hisbah* commission in preventing crime in Zamfara state, Nigeria?

1.4 Objectives of the Research:

Based on the research questions, the research formulated the following set of objectives in order to answer the question raised

1. To highlight the concept of *Hisbah* in Islam.
2. To evaluate the position of *Hisbah* in Zamfara state and the Nigerian Constitution.
3. To identify the strategies Zamfara *Hisbah* commission adopted in preventing crime in Zamfara
4. To analyze the challenges facing Zamfara *Hisbah* commission in preventing crime in Zamfara state.

1.5 Scope of the Research

The scope of this research is to cover the entire Zamfara state only. Zamfara is a state in northwestern Nigeria created in 1996 with fourteen local government Areas. Zamfara State is located at the Northwestern region of Nigeria with Gusau as its headquarters and seat of the government. The dominant tribal groups in the State are the Hausa and Fulani speakers. The State shares borders with the Niger Republic to the North and Kaduna State to the south. To the East, it borders with Katsina State and Sokoto State from the South. It has a total land area of 38,418 square kilometers. Zamfara State as of the 2006 population census has a total population of 3,278,873⁹.

The choice of Zamfara *Hisbah* commission is no doubt is the right state to write on being:

- a. The State was chosen as it was among the first States in the country to introduce the Sharia jurisprudence
- b. Most of the inhabitants of the State are Muslims
- c. The State was least studied as many States such as Kano. Kano have been subjected to studies on their *Hisbah* Board being the second State accounting for the dominant practice of *Hisbah* in the country. It has been researched and investigated to the knowledge of the researcher that none was conducted on Zamfara State *Hisbah* Commission. The urbanization and population of Kano State (being the second most populous States in Nigeria) puts it in a privileged position to be more studied compared to Zamfara State. The economic and social strata of

⁹ National population commission, Nigeria. (2006 census).

the State also give it another advantage. Having taken the above into consideration. The researcher deemed it necessary to choose Zamfara State as the place of study.

In addition, as part of the major concerns of the study, the concept of *Hisbah* in Islam and the stand or position of *Hisbah* in the constitutional provisions of the country are going to be given emphasis in this study. This study also will look at the procedures employed by the Zamfara State Government in preventing crime and the challenges experienced by the State's *Hisbah* commission in battling crimes.

Seventeen years period covering from the year 2003 to the year 2019 is set for the time scope within which this study will be carried out. The rationale for that is that the period witnessed the initiation and inception of *Hisbah* in the State. The major forms of crimes and anti-social behaviors that are going to be considered during this study included but not limited to: alcoholism, immoral act in business, theft, fornication and accusation of adultery.

1.6 Literature Review

Some of the basic literatures concerning *Hisbah* are going to be reviewed in this section, so that the research gap will be brought out to be filled considerably. There is a myriad body of knowledge on *Hisbah* from the point of view of Islamic literatures and models or schools. This form of knowledge has been there in the literature of the classical period and, in modern scholarly works. Also, with the numerous works and scholarly articles published on the conception of *Hisbah*, one can see how very significant this line of research is in the literature of Islamic Societies. The knowledge has received serious attention from researchers across the world with their findings

used in many Islamic societies as part of their Islamic constitutional laws which are put to practice.

1.6.1 Classical Literature on *Hisbah*

The writing on *Hisbah* dates to *Al-Mawardi* (1058 AD/450 AH). His writings appeared in form of chapters in various constitutional compositions¹⁰ and specific books¹¹. Being a contemporary of *Al-Mawardi*, Farra¹² was preceded by *Al-Mawardi* when he comes up with his *Al-Ahkamus Sultaniyyah*. Even *Al-Mawardi*'s book was preceded by al-Utrush's¹³ book which was established to be the first text to be published.

Hisbah was recognized to be an independent constitutional body by *Al-Mawardi* who also classified it as different from *Mazalim* and the judiciary. This was documented at the end of the book where he made such distinction in line with the list of other similar judicial agencies such as the army.

According to the *Al-Ahkamus Sultaniyyah*, *Hisbah* is not to be considered as inferior to other agencies such as the military. Therefore, he defines *Hisbah* in the book as “the act of commanding or encouraging what is good when it is being taken for granted or neglected and prohibiting wrongdoing at the points at which they are being committed. Such prohibition and encouragement of what is considered as right only relates to the Muslims. There is a clear line of difference between those who

¹⁰ Mawardi, AM.H. *Al-Ahkamus Sultaniyyah wal wilayatud-diniyyah*. Tawfiqiyyah press, Cairo. Died 450 AH.

¹¹ Al-Farra'u Abu Ya'la Muhd Bin Al Husain, Died on 458 AH. *Ar-Rutbah* in fra in chapter 3

¹² Mawardi *Al-Ahkamus Sultaniyyh*, in fra chpter 3

¹³ Al-Utrush, H. *Al-ihisab*. Manuscript with the British Museum Att.413, Oriental manuscripts 3/3804.

voluntarily undertake the responsibilities and the *Muhtasib*. Such difference is provided in the points below¹⁴.

1. It is based on the way of appointment which is chosen by the authorities that the *Muhtasib* runs his *Hisbah* obligations while others only undertake their obligations based on shared community responsibilities.
2. While individuals have voluntary and volitional undertakings through supererogatory action to be transmitted to others, the *Muhtasib* undertaking of his responsibilities is necessary as provided during the acceptance of his appointment with roles that are non-transferable to others.
3. The position of the *Muhtasib* is such that is created to discourage people on the committing of ill-behaviors through provision of assistance to the people while on the other end, the voluntarily personnel doesn't have such positions.
4. It is compulsory for the *Muhtasib* to respond to the complaints from others while the voluntary intakes only do that out of their free will.
5. While the voluntary *Hisbah* intakes are not issued with the powers to determine and impose the execution of the laws, the *Muhtasib* on the other hand is charged with the responsibility to observe the committing of crimes, in order to discourage the ill-practices and encourage the very good behaviors that have been abandoned in order to revive them.

¹⁴ Mawardi, AM.H. *Al-Ahkamus Sultaniyyah wal wilayatud-diniyyah*. Tawfiqiyyah press, Cairo. Died 450 AH

6. The *Muhtasib* must be assisted in his process of prohibiting what is wrong so that he can easily carry out the assignment he was tasked to accomplish provided that his position is strong. In the other hand, the ones who voluntarily undertake the responsibility may not require the assistance of others.
7. Punishments not exceeding the *Haad* could be executed by the *Muhtasib* whenever an evil act is committed while such execution may not be possible by the voluntary intakes to *Hisbah*.
8. The *Bai-tal-mal* is used to pay the *Muhtasib* for his services whereas people who work voluntarily are usually not paid for their services of discouraging the evil doing.
9. Matters that related to the customer practice could be settled by the *Muhtasib* using his *Ijtihad* – judgment. Matters concerning the *Sharia* such as the act of setting up projecting sections, organizing the market could not be settled by him as he only rejects them based on the provisions of his *Ijtihad*. On the other end, those who voluntarily undertake the responsibility cannot do this.

As could be seen, there are differences between person employed by *Hisbah* and people that recruit themselves volitionally in the act of encouraging the right when neglected and discouraging the wrong as it was being done. The *Muhtasib* is expected to be a man of sound judgment and a practicing Muslim with good knowledge of the *Deen*. The sound knowledge of differentiating between what is good and evil is therefore needed out of him.

Based on the *Shafi-i* school of thought, there are two different ways that guide towards the conception of *al-Muhtasib* in the *Fuqaha* on whether the *Muhtasib* can use force to desist people from committing crimes. In this case, the *Fuqaha* divides into two different ways of conception according to its *Etihad*. The first conception was that of *Abu Said Al-Istakhri* who opined that he may be able to force others based on his *Ijtihad* and judgment. In this case, the *Muhtasib* is expected to be an '*Alim*' to be able to impose *Ijtihad* among the people and guide them towards the legal rulings of Islam. By so doing, the *Al-Muhtasib* would be able to settle disputes of controversy.

The second, *Fuqaha* according to the school is that the *Muhtasib* should not compel people to agree to his *Ijtihad* and judgments or ruling of the *Deen*. This is because disputed matters concerning *Ijtihad* could be constructed or formulated by almost everyone. As a result, this version of *Fuqaha* excludes the *Muhtasib* from being among the people of *Ijtihad*.

Ar-Rutbah fi Talabil Hisbah,¹⁵ being the *Al Mawardi*'s second book has given more specific roles and rules that guide the practice of *Al Muhtasib*.

The book was classified into various sections, one of which was the definition of *Hisbah*, the ethical features of *Muhtasib* and his intervening power. It was well explained by the author, the basic requirements of the *Muhtasib* on his subjects or subordinates, his administration of oath and his intervening powers on his subjects whenever there is need for any physical intervention. The method of how he carries his roles is all embedded within the chapters of the book. Apart from these sections of the book, other sections of the book encompass the special rules on crafts and

¹⁵ Al-Mawardi. (2002). *al-Rutbah fi Talab al-Hisbah*. Kairo: Dar al-Risalah.20, P44-50

professions. These sections are; *Hisbah* on Builders, on marketers, teachers and on medical practitioners etc.

Al-Mawardi's book has been acknowledged to be one of the first published manual on *Hisbah*. In a later time, more publications followed but with only little differences in the schools of thought known as the *Mazhabs*. These late coming manuals include *Nihayatur-Rutbah fi Talabil Hisbah* of Abdurrahman B Nasr Ash-shaizari¹⁶ (d. 1993 Gregorian calendar) Next is *Ma'alimul Qirbah fi Talabil Hisbah*, Muhammad B Ahmad Ibnul Ukhuwwah Al-Qurashi¹⁷. These have all sprung out of the *Shafi'i* school of thought. Next in the line of publication is Umar as Sunami *Nasibul lhtisab* which was translated by Samarrai. Another manual written by Ibn Bassam *Al-Muhtasib* with the title: *Nihayatur-Rutbah fi Talabil Hisbah* also followed the Mawardi's publication. Other publications following the same fashion include that of Imam Ibnur Raf'ah's *Ar-Rutbah fil-Hisbah* and also Yahya ibn Umar's *Risalah fi Al-ahkam al-suq*.

It was also established that Al-Farra's *Ahkamus-sultaniyyah* which was published in 1066AD/458 AH is a replica to Al-Mawardi's *Ahkam*. The difference only lies in their legal principles which go contrary to the concept of Islamic jurisprudence (Furu') based on the difference along the *Shafi'i* and the *Hambali* school of thought. *Hisbah* was upgraded to be an independent constitutional body by him. Islamic constitutional treatises were upgraded in the two books to encompass the *Hisbah* in *Wilayat*. As viewed by Ibn Arabi¹⁸, the innovations were that of Mawardi

¹⁶ Shaizari, A. *Nihayatur-Rutbah fi Talabil Hisbah*. Publication, translation and distribution press. N.D.

¹⁷ Ibn Ukhuwwah Al-Qurashi, M. *Ma'alimul Qirbah fi Talabil Hisbah*. Cambridge press.

¹⁸ Ibnul-Arabi, A. *Ahkamul Qur'an*. Darul Fikr, no date.

and other scholars. Other orientalist such as the like of Hurvitz¹⁹ also agreed that it was an innovation of both Mawardi and Al-Farra.

A complete chapter was dedicated to the exploration of *Hisbah* in Al-Ghazali's (d 1155AD/550AH) book titled the Revival of Religious sciences (*Ihyau Ulum al-deen*) a detailed account was given on the various degrees of *Hisbah* in the book. Similarly, some of the most prominent *Muhtasibs* were looked together with how they were able to carry out their *Ihtisab* in the time when the targets of *Ihtisab* were the political leaders of their time. A very detailed explanation was given on *Hisbah* being a key component of Muslim societal organizations that is both socially and mystically organized. Al-Ghazali explained the relationship between the police and the government agencies and striking out the lines of demarcation right and duties contained within the theories of constitution.

Al-Ghazali took a very different perspective of tackling the issue from mystical viewpoint contrary to his contemporaries (Mawardi and Farra) who made use of both constitutional and administrative perspectives in dealing with the situation. Other three authors explored their writings on the various components of *Ihtisab* with Farra and Mawardi taking a technical perspective which could not be stripped away from their past encounters and experiences as judges. They both were judges (Al-Ghazali a mystic and a jury and Mawardi, a *Muhtasib*). This is the reason behind the voluntary directionality of *Muhtasib* and therefore is evolutionary to the sprung of *Hisbah* which was well received among both the Muslims and Non-Muslims.

¹⁹ Hurvits, N. *Competing Texts: The Relationship between Al-Mawardi's and Abu Ya'la Al-Ahkamus-Sultaniyyah*, (2007) Islamic Legal Studies Program, Harvard Law School, Occasional Publication 8, October.

Al Hisbah fil Islam, one of the most prolific works of Ibn Taimiyyah (1328AD/728AH) serves as one of the theoretical materials on the topic. Other works of similar representation include his *Al-amri bil ma'aruf wan nahy anil Munkar*²⁰. The text introduced the social conception of the fact that humans are gregarious creatures and hence, there is need for a given government to run their affairs and a social order to organize them. He consents that there is a need for a given social order in every society whether it is Islamic or not. His work therefore is strengthened following the Qur'anic and Sunnah authorities requiring *Ihtisab* and talked on the ethics of a *Muhtasib* as well as what sort of *Ta'azir* can a *Muhtasib* impose.

In addition, modern works have featured to encompass *Hisbah* discussions from very important scholarly conceptions which received lots of attention through the instigation of ideas about *Hisbah* in the form of academic articles. These academic works have been appreciated and responded to in the form of implementation.

1.6.2 Some of the Modern Literature on *Hisbah*

According to Dogarawas²¹, Role of *Hisbah* Institution in Ensuring Ethical Business Practices: Reflection for *Sharia* Implementing States in Nigeria” the absence of *Hisbah* institutions related talks which stipulates the role of *Hisbah* personnel assisting in numerous ways in monitoring, regulating, measuring and ensuring the effective social interactions between people through supervising the quality of goods sold, and all aspects of fraud among people that engage in a given interaction in the

²⁰ Ibn Taimiyyah, Ahmad ibn Abd Al-halim (1997). *Al-Amru bil Ma'ruf wan-Nahyi anil-Munkar: Maktabatus Sunnah*, Cairo, see also Morgan S. *Enjoining Right and Forbidding Wrong*. (Translation of Ibn Taimiyyah's *Al-amru bil ma'ruf*)

²¹ Dogarawa, A. B. (2010) *Role of Hisbah (ombudsman ship) institution in ensuring ethical Business practices: reflection for sharia implementing states In Nigeria*. Paper presented at the 2011 ben-africa conference Zanzibar, tanzania 31 October – 2 November 2011

country has made many Nigerians to form a very negative perspective on *Hisbah* as they construe it as an institution responsible for only cases related to adultery, fornication, and theft. In order to sensitize people on the roles and responsibilities of *Hisbah* together with their cardinal principles, Dogarawa indulged in publishing research articles on *Hisbah* survey in the country. These articles have gone a very long way in expanding on the roles of *Hisbah* in ethical business practices in various States that implemented the art of *Sharia*. The paper clears the misconception about the spiritual and social roles of *Hisbah* by expatiating on the guiding principles of *Hisbah* in transforming the business activities of various societies to Islamically oriented ones in *Sharia* practicing States. It was finally concluded in his paper that *Sharia* practicing States must employ wholeheartedly the economic role of *Hisbah* so that they can enjoy a free modern market free from economic hiccups.

Barkindo's work²² elaborated on the historical background of *Hisbah* right from the epoch of the prophet of Islam, Muhammad (SAW) and running through the time of his caliphs and other dynasties in the later time such as that of Ummayyad and Abbasid. It was understood and formulated that, *Hisbah* was upgraded to become an independent constitutional agency which has been the case until now. During past decades, the status of *Hisbah* can be compared with that of the Military, the police and the public complaint commission also known as the Ombudsman (the *Mazalim*) through the course of Islamic civilization. The great Sokoto Caliphate is a good example as there, the *Hisbah* was not given the status of being prominent of the agencies of the government that wield constitutional powers. Before the colonial invasion in Nigeria, the *Sharia* was part and parcel of a typical Muslim's way of life,

²² Barkindo, I. (2011) *the role of the institutions of Hisbah in the sharia implementing in states of Northern Nigeria*. PhD Thesis at Ahmadu Bello University, Zaria Nigeria. Faculty of Law, UP

but after the colonialism in the country, the powers of *Sharia* began to dwindle until it was finally subjugated to being only a mere personal law. Zamfara State was the first State in Nigeria to proclaim its State to be run within the principles of *Sharia*, as their courts of law applied the principles of criminal law in 1999. Before long, the State established the *Hisbah* to implement the State's *Sharia* constitution within the State. In a later time, many States also implemented the *Sharia* in their courts. These States include Kano and Jigawa States. With the view to make the *Sharia* work in their States, an agency has to be created (*Hisbah*) to see to the roles of implementing the canons of *Sharia* in the States, thus, *Hisbah* was introduced into these States to complement the *Sharia* in the States.

Hisbah was made to be a commission or Board in Jigawa, Kano and Zamfara States, while in the other five States, the functions of *Hisbah* lies within the *Sharia* commission with *Hisbah* as a sub-committee, while in the two remaining States, *Hisbah* functions as a voluntary organization.

In Jigawa, Zamfara and Kano State, the laws governing *Hisbah* have well-stipulated the implementing powers and responsibilities of *Hisbah* in the States in detail. Kano State having the most organized *Hisbah* board which was instrumental in prohibiting and averting the sales of Alcohol, its consumption, prostitution, finding lost people and sensitizing the public on the issues relating to moral upbringing and the ways *Hisbah* affect the well-being of the people. Even though *Hisbah* operates in these States, their implementation of *Sharia* was not the same in the various State as there is a disparity in the approaches employed by the *Hisbah* commissions of various States. Even though, there is a chance for unity and cooperation between *Hisbah* and the other law enforcement agencies. Finally, he gives suggestion that the *Hisbah* should devise ways to build its capacity to deliver well, so that maximum support will

be obtained from the government and the confidence of the institution will increase and *Sharia* will be implemented better.

Azrin²³ explores the *Hisbah* position on Islamic management together with the Philosophical reasons that guided the implementation of *Hisbah* from the perspective of Islamic management. Azrin makes it clear from historical antecedence that revealed the position of *Hisbah* as the main institution that guides the Islamic leadership and governance. Transparency would therefore be obtained when *Hisbah* is implemented in an efficient manner. The researcher collected her data using the library approach. The data for her research was then subjected to content analysis.

According to the finding of the study, it was concluded that the fact that Allah (SWT) is the supreme creator of the mankind has always been the main philosophy that guided *Hisbah* and its management. The conception of *muhasabah al-nafs* is behind the *Hisbah* ethical principles which were to be supported by five key principles. It was finally fathomed from her study that the principles of ethics and philosophical concerns of *Hisbah* are geared towards realizing the aims of Islamic management.

The role of *Hisbah* in Islamic culture was studied by Attahiru²⁴ in Sokoto State Nigeria. According to him, immoral acts of business conduct, issues relating to hoarding, committing of unlawful *riba*, cheating, corruption, perjury and other acts of immorality have been the most important areas of prohibition by the *Hisbah* as such practice are the major cause of poverty and dwindling of economic growth. Examining the relationship existing between religiosity, Islamic culture and Islamic business

²³ AZRIN, I. (2015) *Accountability (Hisbah) in Islamic Management: The Philosophy and Ethics behind its Implementation. International Journal of Humanities and Social Science Vol. 5, No. 8; August 2015* Centre for Islamic Development Management Studies (ISDEV) Universiti Sains Malaysia Pulau Pinang Malaysia.

²⁴ Attahiru, M.S (2018) *Religiosity, Islamic culture and Islamic business ethics practice in sokoto business dealings: a moderating role of Hisbah principles*. PhD Universiti Utara Malaysia.

ethical practices is one of the main purposes that believe the undertaking of the study. The Qur'an and Hadith of Prophet Muhammad (SAW) are the premise from which this study is carried out.

The researched distributed a number of 576 survey questionnaires with the aid of research assistants to the participants of the study who cut across Islamic scholars, traders, customers and officials of the *Hisbah* within Sokoto State. Of the 576 questionnaires, distributed, 488 were returned and used for analysis. The returned questionnaires were subjected to SPSS analysis and PLSSEM 2.0. Where the exploratory factor analysis, reliability analysis and confirmatory factor analysis were run on the data obtained. Based on the result obtained, it was revealed that the framework of Islamic business ethics practices encompasses lawful earning, removal of hardship, uncertainty, and justice. It was also revealed that the relationship between Islamic culture and religiosity and Islamic business. Ethical practice is moderated by the *Hisbah* principles and as such, the *Hisbah* institution needs to be empowered by the government for better performance of their roles and responsibilities.

1.7 Research Methodology

The research methodology is a set of methods or steps which are systematically arranged and planned in order to solve a given research problem. The process of scientific enquiry and the products can be well-explained through research²⁵. Both the procedures and techniques of collecting the data for the research are all clearly spelt out in the research methodology together with the methods and procedures of data collection and analysis for the research are explored in this, section.

²⁵ Mimansha P.N.P. (2019). Exploring Research Methodology: Review Article. International Journal of Research & Review (www.ijrrjournal.com), 6/3, pp.48-55.

1.7.1 Data Collection

The present research employs qualitative research design which incorporates the research techniques of investigating aspects of beliefs, small group discussions, normative behavior conceptions, focus group interviews, semi-structured interviews, personnel issues or perspectives which enable the researcher to form a comprehensive knowledge on the analysis of articles, diaries and the fathoming of distributed or private knowledge²⁶. The library and field research methods are the two notable data collections for the present research. The former was collected from many sources of data collection which cut across the *Qur'an* and its exegesis, *Hadith* texts together with their commentaries and other writing of classical *Hisbah* together with modern writings both in English and Arabic. More works consulted include several books, research articles, government documents law texts and other form of reports. To secure information on the History of *Hisbah* which could be traced down to the Holy *Qur'an*, other relevant texts were consulted as well. These texts extract their findings from the doings of the Prophet of Islam and the injunctions and acts of his companions. On the other hand, the research will collect the byelaws together with the monthly report from the *Hisbah* commission of Zamfara State.

For the field research, the interview method was applied. The rationale for employing the interview method is based on the fact that it provides a deeper understanding of social phenomena better than what is obtainable from works that are quantitative oriented methods e.g. that of the questionnaires. In situations when not much is known on the study phenomenon, then interview is the best means of data collection as detailed information can be explored from the subjects better than they

²⁶ K. Hammarberg, M.K.S. (2016). Qualitative research methods: when to use them and how to judge them, *Human Reproduction*, 31/3, pp. 498–501,

could be obtained from questionnaires. Issues of high sensitivity that do not require environmental group involvements are also better collected using the interviews²⁷.

For the sampling technique, this research employs the purposive sampling technique as it extracts the specific traits of an individual or issue based on the qualities they possess. This is a non-random method which does not require a very large number of participants or underlying theories. So, the choice of purposive sampling technique allows the researcher to explore that which he needs to be collected and therefore sought for participants who have the knowledge and experience to provide the needed information²⁸. In this form of sampling, judgments are personally made in order to meet the set objectives and answer the formulated questions. Hence during this research, the researcher purposively selected 8 participants from the *Hisbah* managers, security agencies, associations and from other notable individuals from the state. Two respondents representing each category were selected to be interviewed. Even those interviewed were purposively selected. A checklist was used for the interview questions and another checklist was also used to represent the acceptability and the mannerism at which *Hisbah* operates to prevent the committing of crimes.

1.7.2 Method of Data Analysis

A qualitative method was employed in the analysis of the data obtained. A thematic (coding) method of qualitative analysis was specifically utilized for the analysis which was supplemented by the content analysis qualitative data analysis. In order to explore and address the different research objectives, the researcher further

²⁷ P. Gill, K. Stewart, E. Treasure & B. Chadwick. (2008). Methods of data collection in qualitative research: interviews and focus groups. *British Dental Journal*, vol. 204, pp. 291–295

²⁸ Bernard, H.R. 2002. *Research Methods in Anthropology: Qualitative and quantitative methods*. 3rd edition. Altamira Press, Walnut Creek, California.

employs both the deductive and inductive research approaches which incorporate the quantitative and qualitative analysis. For that reason, the first research objective is analyzed using the deductive approach as it identifies and evaluates the State of *Hisbah* in the constitution of the Federal Republic of Nigeria. While the second research objective was analyzed using the inductive and qualitative research method in order to explore on the roles of *Hisbah* commission in crime prevention in Zamfara State. Based on the highlighted methodological analysis above, the research triangulated the data in order to reflect and place the research findings in a wider research context and to meet all the research objectives raised and the research questions answered.

Below is the summary of the data analysis and collection.

Table 1.1: Summary of the Data Analysis

S/N	Objectives	Questions	Methods of Data collection	Analysis
1.	To highlight the concept <i>Hisbah</i> in Islam.	What is the concept of the institution of <i>Hisbah</i> in Islam?	Documented Data (Secondary Data)	Content Analysis
2	To evaluate the position of <i>Hisbah</i> in Zamfara state and Nigerian Constitution	What is the position of <i>Hisbah</i> in Nigerian Constitution?	In-depth Interview/ Documented Data	Thematic Analysis/ content Analysis
3	To identify the strategies Zamfara <i>Hisbah</i> commission adopted in preventing crime in Zamfara	What are the strategies Zamfara <i>Hisbah</i> commission adopted in preventing crime in Zamfara?	In-depth Interview/ Documented Data	Thematic Analysis/Content Analysis
4	To analyses the challenges facing Zamfara <i>Hisbah</i> commission in preventing crime in Zamfara state.	What are the challenges facing Zamfara <i>Hisbah</i> commission in preventing crime in Zamfara state, Nigeria?	In-depth Interview Documented Data	Thematic Analysis

1.8 Limitations of the Study

As no research is free of problems that may come up during writing, this work is also not an exception to that as some of the issues that limited the smooth writing of the work are highlighted below:

1. Local Factors:

Most of the literature consulted in this study are from the context of other countries (not Nigeria) especially the fact that they Arabic Literature. These include the *Ihtisab*, *Amr bil ma'ruf wan nahy anil munkar*. The *Hisbah* Magazine was also of the Saudi descent and therefore not Nigerian. This makes the discussions that were obtained from *Ma'aruf* and *Munkar* to be different. But with the availability of reports on Nigerian *Hisbah* and Legislation, relevant data were obtained from the Nigerian context. These reports, such as that of Kano were obtained every month as they transpire in the Lingua Franca of the Northern States, the Hausa language. These documents although being public are never published and therefore their availability to the public is not very feasible. Because of this fact, that they are not recognized as academic works, they are free from external exercise analysis.

2. Political Factors:

The Arabic Literature with many classical works only considers the voluntary *Muhtasib* and therefore has not given heed to the constitutional provisions and arrangement of the constitution. Only few of such works heeded to the constitutional implications and jurisdiction of the agency over given issues. The police and the army are more equipped and more capable to handle and prohibit wrong doings according to the eight degrees of Al-Ghazali. Mawardi's *ar-Rutbah* depicts *Hisbah* as a more independent organization that will be able to combine the functions of virtually of law

enforcement agencies, regulatory agencies as well as supervisory agencies currently available put altogether. Very few instances in *ar-Rutbah* recognize the police. AbdulWahhab recognizes the constitutional roles of the Police, Security Service, Customs Service, National Drug Law Enforcement Agency (NDLEA), he even recognizes the role of the *Hisbah* regarding parliamentarians.

Practices of *Hisbah* are more prevalent in countries with very high Muslim population such as the Saudi, Yemen and Pakistan.

In these countries such as the Saudi, the Quran and Hadith as contained in their constitution are the sources of law based on the section 3 of their constitution. This means that whatever is carried out within the countries is based on the premise of *Quran* and *Sunnah*. Every agency in these countries is made to commit to the *Amr-bil ma'ruf wan nahy anil munkar*. Such is also the case with Pakistan

Therefore, books written in these countries do not address the political realities of Nigeria and cannot be a benchmark for the assessment of *Hisbah* in the country. Therefore, a literature of Nigerian decent is required to address the questions regarding constitutional harmony, about the *Hisbah* institution, roles and functions in Nigeria.

1.9 The Structure of the Thesis

The thesis is structured to consist five chapters. Chapter one introduced the topic starting from the background of the study, problem, questions, objectives, scope of the study, literature review and methodology used in the analysis of Data. Chapter two concept of *Hisbah* in Islam and the role of *Muhtasib* in preventing crime in Islam. Chapter three deals with the status of *Hisbah* in Zamfara State and discussed the role of the *Muhtasib* in the prevention of crime in Zamfara. Chapter four the challenges