

AN ADDRESS BY THE HONOURABLE, THE CHIEF JUSTICE OF NIGERIA, HON. JUSTICE MAHMUD MOHAMMED, GCON, DELIVERED AT THE SWEARING-IN CEREMONY OF HONOURABLE KADI IBRAHIM ABBA, AS THE NEWLY APPOINTED GRAND KADI OF THE SHARIA COURT OF APPEAL, FEDERAL CAPITAL TERRITORY, ABUJA, ON 11 MARCH 2015 AT THE MAIN COURT ROOM OF THE SUPREME COURT, AT 10:00 AM.

PROTOCOL

I am indeed delighted to address you all on this occasion of the swearing-in ceremony for the newly appointed Grand Kadi of the Sharia Court of Appeal of the Federal Capital Territory, Abuja. I join all our guests here to congratulate you and to wish you well as you take up your assignment as the Head of the Sharia Court of Appeal, Federal Capital Territory.

The Sharia Court of Appeal, is a court where there is a rare confluence between the highest moral tenets available to man, and the quest to see that Justice is done according to law. As your Lordship takes the oath of office and the oath of allegiance, it bears reminding that Webster's dictionary defines an oath as: "**A solemn appeal to God**". As a Judge, it takes on greater significance as it become an affirmation and promise made under an immediate sense of responsibility to God and not just to the parties before his court.

It is from this oath that your duties and responsibilities spring forth and has a binding effect. It is an ethical contract with Justice that you will uphold the Rule of Law and enshrine Justice in your Court according to the principles of Sharia. As such, my Lord, yours is an especially onerous position but I believe that it is one for which you are well equipped to face squarely.

It was the Nigerian philosopher and scholar, **Waziri Abdullahi Dan Fodio** in his book **Liya'alHuuam (1221) 1976 AD—the Work of Judges** on page 28, who defined the work of judges thus: '**to settle disputes, prevent**

oppression, aid the oppressed, encourage the right, (and) prevent the wrong. That is all''.

My lords, Ladies and Gentlemen, our profession and the Judiciary are anchored on credibility. We ensure enforcement of our decisions with the currency. Every assault on the credibility of a court is a loss of credibility for the entire Judiciary. As a Head of Court, your lordship must take the lead in protecting our credibility by ensuring that you strictly adhere to the Code of Conduct for Judicial Officers in the performance of your duties. Your Lordship must therefore act with a higher level of decorum and within the dictates of your conscience. The fundamental rights, freedoms and principles underpinning our Constitutional Democracy must guide you. May I stress, once again, on the need for all Judges to conduct themselves in a manner that is seen to be as above board as the proverbial Caesar's wife. Any standard that is less than that which is prescribed is one, which will be frowned upon and I make bold to say that any infringement of the Codes of Conduct shall attract the sanction of the National Judicial Council.

In addition to good conduct and high morals, your knowledge of the Sharia must be exceptional. Gone are the days when the Sharia Court was considered a "layman's" court especially as more legal practitioners are now appearing before these courts. You must not only be knowledgeable in the Sharia, as prescribed by Section 288 of the 1999 Constitution (as amended), but you must also understand the rationale behind as well as the import and purport of the provisions of Sharia. It is now abundantly clear that a judge who is not fully aware of the law can ruin lives by interpreting the law wrongly and thereafter giving the wrong judgment.

It is with a view of the above that, the National Judicial Council, in its new Guidelines, had directed that henceforth, any prospective appointee to the Sharia Court of Appeal must not only possess a good knowledge of Sharia, as provided for under the Constitution, but must also be fluent in spoken and written Arabic, to be able to trace the law to its source.

My lords, I wish to use this opportunity to clarify on a thorny recurring issue concerning the hierarchy within the State Judicature. I am aware that the power tussle in some jurisdictions as to whom the Head of the Judiciary is has not only opened the Judiciary to ridicule, but has most regrettably denied litigants and indeed members of the public access to justice. This situation is certainly disheartening given the fact that the High Courts, Sharia Courts of Appeal and Customary Courts of Appeal are undoubtedly an indispensable and important synergistic system vital to the sustenance of peace and stability in our country, as recognized by our Constitution. No doubt, this is most detrimental to the common purpose, which we strive for, as a house divided cannot stand.

In a bid to foster harmony and sustain the traditional values for which the Judiciary is renowned, I wish to clarify that the Chief Judge of the State High Court is the Head of the Judiciary in that State. Sections 275 and 280 of the Constitution consolidate this contention as they respectively provide that the Sharia Court of Appeal and the Customary Court of Appeal shall be established "**for any State that requires it**". In contrast, the Constitution mandates in Section 270 (1) that "**there shall be a High Court for each State of the Federation**". Adopting a purposive interpretation to these sections, I believe that a clear hierarchy emanates as intended to the effect that the Chief Judge is the Head of the third arm of Government in each State.

Furthermore, constitutional mention suggests primacy and functions, such as the power to set up a panel to investigate allegations contained in an impeachment notice to remove a State Executive by impeachment under Section 188 (5) of the 1999 Constitution (as amended), is bestowed upon the Chief Judge only.

However, even though a State Chief Judge may be *primus inter pares*, it is crucial that they work in tandem with the other Heads of Courts in order to ensure the smooth administration of justice for the good of our dear nation. Any confusion as to leadership will cause the courts to flounder and stall, as

uncertainty will lead to mistrust, low productivity, discontent, rancour and indiscipline.

My lords, Ladies and Gentlemen, we must not forget that our courts are still under lock and key in many states of the federation with serious implications for justice delivery. I must therefore use this medium to appeal to our states Chief Executives to be mindful of the fact that the judiciary is not expendable. The Governors must be particularly mindful of their constitutional responsibility to uphold the rule of law of which a crucial component is obedience of court orders. Similarly, the Judicial Staff Union of Nigeria (JUSUN) are also reminded that however meritorious their cause may be, the average Nigerian, who is the most important stakeholder in the justice sector, is the loser. I therefore call upon JUSUN to explore means of pursuing its legitimate claims with consideration for all court users and the public so as to bring the strike to an end.

As I again congratulate your lordship on your elevation, I remind you of the words of the late American President John F. Kennedy, who said, "**Leadership and learning are indispensable to each other**". I urge you to learn every day as you carry on your responsibilities. Remember that time is your judge and posterity your executioner. I wish you all the best in the conduct of your duties and pray that the Almighty Allah will grant you wisdom and the countenance to excel in it.

Thank you.

MAHMUD MOHAMMED, GCON
Chief Justice of Nigeria