ADMINISTRATION OF JUSTICE IN THE SHARIA COURTS: ISSUES, CHALLENGES AND PROSPECTS

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Being a Paper Presented at the 2022 All Nigeria Judges' Conference Of The Lower Courts, at the National Judicial Institute.
17th November, 2022.

PREAMBLE

I have found it highly pleasing to stand before this august audience of learned minds; not to deliver any lecture, perse, but to merely anchor a discussion on the topic, "***Administration of Justice in the Sharia Courts: Issues, Challenges and the Way Forward.***"

May I note very loudly that the Institute, in considering me among several better and more eminently qualified options for this task, has only accorded me a great privillege. Neither will I therefore attempt to hush nor mute my most profound appreciation to my lord, the Administrator of the Institute, Hon. Justice Salisu Garba Abdullahi and all other authorities, whose facilitation or approval have been instrumental to actualising my standing, this day, on this exalted podium.

I pray that the Almighty continues to strengthen the leadership of the Institute, in its avowed commitment to develop the human capital resource of the Nation's judiciary and bless the Institute with more monumental exploits in the actualization of its mandates.

- **INTRODUCTION**

Justice dispensation, in the eye of the Shariáh, is not only a civic duty or legal task that judges have assumed but more primarily, a spiritual obligation under

which a judge is not only responsible to his society but ultimately and more fundamentally as well, accountable to his Creator. As such, the fundanmentality of due observance of the sacred task of dispensing justice has been abundantly underscored by various texts of the Primary Sources of the Shariáh; the Qur-aan and Sunnah.

the Qur-aan provides:

"***Verily Allah enjoins that you shall render the reposed trusts unto their rightful owners and that when ye judge between men, ye shall judge with justice. How excellent is the teaching by which He Allah instructs you. Veriliy Allah is All-seeing All-hearing."- Soorah An-Nisaa, 4:58***

"O ye who believe! stand out firmly in upholding the tenets of justice; as advocates thereof at the instance of Allah; even as against yourselves or your parents or your kin and whether it be against rich or poor for Allah best protects (the interests of) both. Therefore, succumb not to (personal) inclination, lest ye fall into injustice. and if ye pervert justice or decline therefrom, Allah is well acquainted with all that ye do."- Soorah An-Nisaa, 4: 135

"O ye who believe! stand out firmly for Allah as proponents of justice and let not your resentment for a people lead you to being unjust (towards them). Be just, that is closer to piety. And fear Allah, for indeed, Allah is well acquainted with what ye do." Soorah Al-Maa-idah, 5:8

Buraidah bn Haseeb also narrated that Allah's Messenger (peace be upon him) has said:

"judges are of three sorts; two shall be in the Hellfire and one shall be in the Paradise. One who knows the truth or the right and jugdes in accordance thereto shall be in the Paradise while one who knows the truth or the right but

refuses to judge thereby and thus subverted justice in his judgement shall be in Hellfire; while also one who knows not the truth or right and thus judges between people in ignorance shall be in Hellfire" - Sunan At-Tirmidhee, authenticated by Al-Haakim and Al-Albaanee

From the above quotes of the Qur-aan and Sunnah, it is crystal clear that Islamic principle of justice has been premised on two fundamental prerequistes; **knowledge of the law and conscience of the judge** and the two are concurrently required for a judge to rightly assume adjudication and neither of the two prerequisites ever suffices against the other. Otherwise, the judge is on the voyage of eternal perdition in the Fire of Hell - Allah's protection is sought.

In the bid to achieve the golden end of justice, the Shari‘ah has introduced certain precepts, which have been constituted into potent inbuilt mechanism in justce delivery and which precepts have sprung from the rudiments of fairness and equity as have been lucidly highlighted in Islamic law and jurisprudence; right from the raw texts of the the Glorious Qur-aan and Sunnah and the juristic expositions as well expounded in the various schools of Islamic jurisprudence.

It is thus pertinent to note that the Shari'ah has not only been detailed with respect to its subantive laws, in all spheres of legal concerns, it has also provided for clear and distinct adjectival laws, which, over the centuries, have practically proven to have afforded a relatively surer, smoother and quicker system of justice dispensation.

In this paper, attempt shall be made to consider the administration of justice in Nigerian Shari‘ah courts by appraising the common issues with respect to

proceedings in courts of first instance; especially, as oftenly arise for appellate and supervisory review by the Sharia Court of Appeal.

This is with a view to addressing some recurrent infractions of the necessary Shari'ah adjudicatory practice and procedure with regards to trial proceedings. The paper, my lords, distinguished particpants, also humbly attempts to stimulate a redirection of our Sharia judges of first instance towards a holistic adherence to both the sustantive and adjectival Islamic laws; as far as possible, within the context of the Nigerian Legal System. Accordingly, judgements of Sharia'h courts after this session, is hoped to be more reflective of not only the substance of the Shari'ah but also the necessary procedural mechanism, customized for its due administration. This is in necessary avoidance of "***inadvertent printing of the Shari'ah photograph in the negative of other laws***", as once observed A. M. Ambali G.K. (RTD.). In other words, it is a clarion call to all Sharia judges, inclusive of my humble self to consciously guard against cloaking Shari'ah decisions in the garb of other sister jurisprudences; especially, the English common law.

THE SHARI'AH AND ADMINISTRATION OF JUSTICE

In very simplistic terms, permit me to define the Shari'ah, for the purpose of this paper as ***that body of laws rules, regulations, principles, ordinances and/codes, primarily expressed vide Fountain-heads of Islamic precepts; the Qur-aan and Sunnah, expounded in a number of secondary sources and the due observance whereof has been prescribed for Muslims, in all facets of life.***

The Shari'ah, therefore, transcends mere credal codes or doctrinal principles but represents a vast and comprehensive legal system, costituted by its distinct substantive laws, rooted in its unique philosophy (jurisprudence(Usool)) and administered through its customized rules of procedure.

Hence, the Shari'ah covers all aspects of civil law (Al-hukm al-madanee), whether as partains laws of personal status (Al-ahwaal Ash-shakhsiyyah), commercial law, (Fiqhul-mu'aamalaat), property law; whether real estate or chattels (Al-ahkaam al-milkiyyah), governance and dministrative law (Al-ahkaam as-sultaaniyyah); just as it is also detailed on laws of crimes and torts (Al-ahkaam al-jinaa-iyyah). Indeed, Islamic law extends to law of nations or International law ('uloomus-siyar); with comprehensive provisions; guiding diplomatic relations in states of war, peace and neutrality.

It would, therefore, be apt to conclude that the Shari'ah has afforded humanity with an all pervading system of justice, founded upon simple, transparent; yet, sophisticated and dynamic principles of justice, completely distinct from the customary norms of any culture or tradition, including customs of the pre-Islamic Arabia. The Shari'ah, rather, represents a re-writing of the of Arabian history, a repeal, an abrogation, and a supercession of the pre-Islamic Arabian partriachal order which had only found justification in succession of tribal feuds and vendettas; just as the case still is with many African customs and any justice system that may have been founded on them. Hence, the evolution of Shari'ah in Arabia can only be honestly described as an enactment of a new legal order.

The Qur-aan provides:

***"Certainly, Allah has conferred [great] favour on the believers, when He sent among them a messenger from among themselves, rehearsing unto them, His scripture and sanctifying them thereby; teaching them the Book and Wisdom; for before that, they were in manifest error*" - Soorah Aali 'Imraan, 3: 164**

The point, therefore, could not have been more succinctly put than as has been settled by the Supreme Court, Per Wali JSC, when his lordship, of blessed memmory, observed:

"***Islamic law is not the same as customary law as it does not belong to any particular tribe. it is a complete system of universal law; more certain and more permanent and more universal than the English Common law."*** **- AL-KAMAWA VS. BELLO & ANOR. (1998) 6 SCNJ, 127.**

While the foregoing generally exrays the Shari'ah; especially, with regards to the substantive laws, the underlying principles, constituting the hallmark of Islamic procedural law, as well, can be well discerned from several established ahaadeeth on evidence and procedure. Given the deeper insight of the Companions of Allah's Messenger (peace be on him) with respect to the established standards of in practice and procedure, Caliph 'Umar (Allah be pleased with him) had, since the first century of Islam, settled the rudiments and fundamental principles of Islamic Procedural Law, vide his several judicial codes, isuued to his appointed judges. Suffice for this illustration, however, is one of those addressed to Abu Musa Al-Ash'ariy, which reads:

> ***Judicial function is an unequivocal obligation and a course (of justice), requiring (strict) observance. Let not let a decision, which you had reached, yesterday but had good course to reconsider, having been guided to a juster opinion, ever prevent you from returning to the right on; for verily, the truth is never subverted by anything. Know that [reconsidering and] returning to the right decision is always better than persistence on error.***
>
> ***Use your reasoning (dispassionately) in matters, whereof your heart hesitates or is perplexed and whereupon, there is no Qur'anic verse or sunnah. Master the (principles of analogisation), then, make (guided)***

compararison of the arising matters to the (established standard, then adopt the most pleasing of them to God, and the one closest to the truth in your view.

God has taken responsibility in your stead for the secret (inner states of men) and has averted responsibility from you by means of the explicit evidence or proofs."

THE SHARIA COURTS DEFINED

Under the Nigerian Legal System, the term, Shari‘ah court, broadly speaking, may rightly apply to all courts statutorily mandated to exercise jurisdictions in Islamic law. These include the Area Courts, Sharia courts of first instance and of course, the Sharia Court of Appeal. Although, the Area Court is a court of multiple jurisditions as it equally exercises jurisdiction in customary law along side criminal jurisdictions under some enacted laws that are not necessarily of Shari'ah source. The court, however, has a statutory mandate, whenever it sits in matters of Islamic law, to apply Islamic procedural law; otherwise known as Al-Akaam A-Ijraa-iyyah or Al-Muraafa-'aat Thus, Order 11 Part 1 of the Area (Civil Procedure) Rules Cap A9, Laws of Kwara State provides:

"After the provisuions of Order 10 has been complied with, then if the case is one in which Moslem lawis to be administered or applied, the court shall continue the hearing in accordance with Moslem law and procedure"

Similarly, by Section 13 of the Sharia Court of Appeal Law, the first source of law, guiding the proceedings of the Sharia Court of Appeal is Islamic law of the

Maliki School; hence, the capturing of the Court, for the purpose of this discourse, as a typical Sharia Court, aside from the obvious depiction as evident from the court's name

Our focus in this paper, therefore, is to examine some issues affecting the administration of Shari‘ah justice, with particular regards to the Area Courts and Sharia courts of first instance and to some considerable degree, consider some of the recurrent issues with respect to Sharia Court of Appeal; both as typical court of Shari'ah juridiction and as the superior court of record, exercising both appellate and supervisory jurisdiction in matters of Islamic Personal Law over the the other two courts.

ISSUES IN THE ADMINISTRATION OF JUSTICE IN SHARIA COURTS

From recurrent observations, sitting on appeals against decisions of Area Courts of Kwara State, the relevant constitutional and statutory provisions as well the state of the case law, touching directly or otherwise on administration of Shari'ah in Nigeria, the following, not being an exhaustive list, has been considered for discusussion in this paper:

1. Lack of Standardized Adjectival Rules for Most Courts, Exercising Shari'ah Jurisdiction

Up until this moment, and except in the isolated cases of Niger, Zamfara, Kebbi, Kano and possibly, a few other states, operating the Sharia courts of instance, post 1999, all the other jurisdictions, administring the Sharia vide the Area Court system are still governed by the colonial Area Courts Law and the subsidiary Area Court (Civil Procedure) Rule thereunder.

The inadequate statutory expression of Islamic law, generally and the restricted access to Shari'ah legal texts in Arabic by most lawyers, conducting proceedings in the Sharia courts, have no doubt diminished the quality of legal expositions on principles of Islamic law. This, no doubt, has had a negative impact on the development of Islamic law, in Nigeria.

The consequence of this undesirable state of affair is having counsel canvassing, remorselessly, the Evidence Act and relying solely, on practice and procedures aplicable to common law oriented courts. More worrisome than this is having some of our Area Court judges, as well, resolving procedural issues on the strength of statutes, alien to Shari'ah proceedings; such as the Sherriffs and Civil Processes Act or case laws, founded on purely common law principles.

- **Pleadings as distinct from testimonies**

It is well established under Islamic law that representation of parties to proceedings are mere pleadings; whether such representations are contained in processes; such as statement of claim or statement of defence or they are made orally during the trial, since a party, under Islamic law is never a witness in his own case. It is, therefore, a misnomer, finding parties in the records of the trial court, designated as PW1 or DW1, The Court of Appeal, in Abubakar Bashir vs. Bulama Bashir (2017), LEPLR - 43272 held:

"It is correct, under Islamic law, unlike the English law that parties are not competent witnesses in their respective cases; hence, their statements in court would not be regarded as evidence and their statements are something akin or similar to Statement of Claim or Defence in court... Where the statement, made by a party is, however, admitted by the other party, the party, making the statement is entitled to judgement, under Islamic law, without the need to call a witness. In other words, under Islamic law, an admission is better than caling witnesses. This is epitomized in the maxim, Al-Iqraar awlaa minash-shuhood"; meaning, an admission is more superior to the testimony of witnesses"

- **Status of parties is determined by their pleadings**

Under Islamic procedural law, civil proceedings are conducted in the inquisitorial mode, in contradistinction to the accusatorial mode, applicable under the common law. The judge of a Shariah court, thus has a duty to mandate

the party, upon whom lies the burden to prove the relevant determinant facts to discharge the due onus. Having discharged the onus, satisfactorily, the court, thereafter calls on the other to impugn the adversary's testimonies, if he has any proof in rebuttal thereof; failing which judgement would be entered on the strength of the unchallenged satisfactory testimonies.

Where the defendant's response amounts to an effective denial of the allegations in the Statement of Claim, it is the duty of the Judge to direct that evidence be led by the party having the onus to prove the relevant fact(s). If that party fails, then, the oath of the defendant is resorted to. But where the defendant declines the adjudicatory oath (*nukool*), the claimant is directed to swear to an oath in proof of the truthfulness of his case and on the strength of his oath, the claimant's claim is granted.

One intricacy in Islamic law procedural law remains the ability to distinguish the *Mudda'ee* from the Mudda'aa 'alayh as it does not follow in Islamic law that he who goes to court to lodge a complaint is necessarily the Plaintiff while the person against whom complaint is lodged is automatically defendant. Identification of plaintiff or defendant constitutes the herculean task for courts of first instance applying Shari'ah. In Risalah al Qayrawaniy, a popular Maliki text, it is said:

> ***"Anyone who has the knowledge of distinguishing the plaintiff from the defendant has discovered the gate of a just decision."***

Where the resolution of a case is dependent on the establishment or negation a particular fact, the judge has the duty to call on the party having the onus of proving or rebutting that particular fact to discharge the onus. Meanwhile, parties have the right to impugn the evidence of each other and the ought not

to object to this. The following are some of the ways through which the testimonies of the adversaries can be impeached under Islamic law:

- Impeaching, by credible evidence, the integrity of the witness; either by proving ignobility of his character or by establishing a legal disqualification; e.g conviction for *Qadhf* (defamation), pursuant to Soorah An-Noor; 24, verse 4;
- Impeaching the competence of the witness on the grounds of insanity, imbecility, minority or any feature that may have constituted some impairment to the witness' mental capacity to effectively receive, harbour and render information;
- Establishing that the witness' testimonies were not constituted by directly acquired information but hearsay;
- Establishing a special relationship between the witnesses and the calling party that would naturally erode the objectivity of the witnesses and taint the witness' testimonies with reasonable suspicion; such as where the witness, is at the material time to the trial, currying some favour from the party or is at the party's mercy; or
- Establishing real and subsisting hostility between the witness and the adversary of the calling party that would naturally render the witness bias and hostile witness to the adverse party, against whom he has been called to testify.

- Jurisdiction and the Defendant's Domicile

Generally, adjudicatory jurisdiction (*al-ikhtisaasaat al-qadhaa-iyyah*) is the power of court or judge to entertain an action. In adjudication (*taqaadhee*), it is a settled law that the process is always subject to jurisdictional definitions and limitations; whether in terms of subject matter (*al-ikhtisaas al-mawdu'ee*), scope or quantum of claim (*al-ikhtisaas al-qimee*), geographical definition (*al-*

ikhtisaas al-makanee), classes of parties to litigation or hierarchy of jurisdiction (*al-ikhtisaas an-Naw'ee*); whether appellate or original. Under the Maliki law, a resident defendant, save in land, criminal or tortuous claims, the court of the Defenadant's place shall have jurisdiction, notwithstanding where the subject matter is situated. As for a traveller, the jurisdiction is any location where he is found, irrespective of the location of the subject matter. Thus, to determine what court has the territorial jurisdiction, regard is geanerally had to the nature of the subject matter, the habitual residence of the defendant and resident/traveller's status of the defendant.

ONUS OF PROOF UNDER THE SHARI'AH

The issue of what constitutes proof (*bayyinah)* in discharging the onus of proof is well articulated in the Maliki and other Schools. As has been credited to Imam Malik, the standard is that two male witnesses shall be required in proof of marriage, divorce, retribution and homicide. In commercial matters, the popularly adopted standard is two male witnesses or one male and two female witnesses or one male plus oath of the claimant or the claimant's adjudicatory oath plus the decline (*nukool*) of the defendant. While the foregoing undoubtedly represents the most widely recognised position in the Maliki School and some others, some other voices of reckon have also held sufficient, all proofs by which the claims of the Plaintiff can be rendered vivid; even where the witness is not up to two or the gender is not necessarily, masculine. Ibn al-Qayyim critiquing what he termed as un-prescribed rigidity on number and gender of witnesses as popularly held across Islamic schools of jurisprudence:

... بل الحق أن الشاهد الواحد إذا ظهر صدقه حكم بشهادته وحده

> *The truth, rather, is that where the truth of a single witness has become evident, judgment shall be given; solely on the basis of his testimony.*

This may sound strange to many and some may be quick to cite the verse 282 of Surah al Baqarah, to claim that the testimony of a man equals that of two women. Allah –the Most Exalted– says:

> ***"And bring to witness two witnesses from among your men. And if there are no two men available, then a man and two women from those whom you accept as witnesses."***

The directive as contained in the above Qur-aanic provision is not mandatory but merely advisory as can be seen in the textual rationalisation in the following words of the same verse:

> *"So that **if one of the women errs**, then the other can remind her..."*
>
> *"That is more just in the sight of Allah and stronger as evidence and **more likely to prevent doubt between you."***

The conditional statement *"if one of the women errs"* is a probable event, which does not imply necessarily that she will, unfailingly err. Also, the expression *"more likely to prevent doubt between you"* does not preclude possible instances where one woman as witness to an agreement or contract may recall in graphical details, the terms or that contract.

ATTITUDE OF SHARI'AH COURT IN INTERLOCUTARY APPLICATIONS: PRELIMINARY OBJECTION AS A CASE STUDY

From the procedure discussed earlier on the conduct of trial, one can conveniently deduce that no judgement or ruling can be given on a matter brought before a Shari'ah court until and unless both parties are heard. Bearing in mind that preliminary objection is a defense in law open to the defendant, one sees clearly how it will alter the order of hearing the parties, as the defendant raising preliminary objection will take his turn before the plaintiff. In

contradistinction to the common law procedure where the defendant can raise preliminary objection at any point or stage of the proceedings, the position under the Shariah is the exact opposite:

لا يحكم القاضي حتى يسمع تمام الدعوى والبيّنة

"A judge does not make a pronouncement, disposing of the case, until he hears the entirety of the claims and proofs..."

It follows, therefore, from the above maxim, that a Sharia court is not likely to dispose of a case on the basis of a legal defence, raised by a defendant to a suit before it. Rather, the Claimant is heard on the merit, while the court shall first resolve the legal issue, raised in defence. where the legal defence succeeds, the judge shall determine the case on the strength thereof and having not foreclosed the right of the Claimant to be heard. Where the legal defence fails, however, the Judge calls upon the Defendant to produce his proofs in rebuttal, failing which judgement is entered in favour of the the Claimant, on the merit of his proofs.

Thus, the judge, in dispensing justice would always avail himself of the likely magic that may lying salient in the details and as such found a decision on deeper considerations as against founding same on the shallow insight that is always afforded by interlocutory proceedings.

ATTITUDE OF THE SHARI'AH COURTS TO JUDGEMENT IN DEFAULT OF APPEARANCE

In the same vein, Islamic procedural is averse to default decisions, generally and in no circumstance would judgement be entered, simply on account of absence of the adversary. Even in the event the Defendant's default, the one, who has brought a claim to an Islamic court cannot escape the onus of proving his case, the Defendant's absence, notwithstanding. See Abubakar v. Muhammad (2020) KSCALR pp.187-200, particularly, at pages 193 -194, where the Court observes, quoting from Fiqhul-Ijraa-aat wal-Muraafa'aat fil-Qadhaa-il-Islaamiy; thus:

"***Establishing (by means of proof) in the Shari'ah adjudicatory process, is the standard by which the truth is distinguished from falsehood; the thin (or weightless evidence) from the fat (or weighty) and it is the millitator against false statement and void claims. Based on this, every claim in the eye of the Shari'ah is dependent on proof and no claim is upheld except on the strength of proof and criterion. Allah says in the Qur'an, chapter***

27 verse 64: 'Say, produce your proof if indeed, you are truthful....'' and He continues: ''And if they fail to produce witnesses then, they are but liars in the sight of Allah''. Ibn 'Abbass had also narrated that Allah's Messenger (peace be upon him) said: If men were given judgement only on the basis of their claims, some men would have claimed the blood or wealth of others, but rather the burden of oath (of denial) rests on the defendant (Bukhaariy and Muslim). In another version "but the burden of proof lies on the claimant and the oath (of denial, in the absence of proof) lies on the defendant''. The indicative point of proof, therefore, is that no claim is granted without proof. If not, people would trespass on reputations of others and they would wrongfully demand for the wealth of others and transgress on persons, souls and properties. For that reason, it has always been a settled saying of Islamic jurists that ''verily, proof is the redeemer of legal rights. If not for proof, rights would have been lost and souls would have perished.'' page 1556.

SHARIA APPEALS AND CONFLICT OF LEGAL ORIENTATION

In view of the limited adjudicatory jurisdiction of the Sharia Court of Appeal to only appellate and supervisory jurisdiction, in matters of Islamic personal law, Sharia appeals, from courts of first instance, in other spheres, find their way to the High Court on appeal. This results in procedural battering of many Shari'ah decisions on appeal as matters decided at the trial upon a distinct procedure would now have to come under the scrutiny of judges, whose courts are procedurally guided by statutes and rules, founded on the principles of Common law, doctrines of equity Statutes of General Application that were in force in England on the first day of January, 1900.

LEGAL VACCUUM IN NIGERIAN ISLAMIC COMMERCIAL JURISPRUDENCE: CASE MADE FOR SHARIA COURT OF APPEAL

In the like manner, the Nigerian legal system is also featuring a big vaccuum, in the area of Islamic commercial Law, the principles whereof, form the bases of operation of Islamic banks, otherwise referred to as Non-Interest Banks, Islamic Insurance (Takaful) and Islamic capital markets, currently operational in the country.

While the Shari'ah based financial order has been patronised locally by governments at the state and national levels to the tune of trillions off dollars, it is regrettable to note that the huge transactions are only being

furthered on the platter of scanty legislations and in the absence any court of specilised competence.

If the the decision of the Supreme Court, in ECOBANK VS. ANCHORAGE LEISURES & ORS. (2018) LPELR - 45125, is anything to go by, the Federal and State High Courts would continue to exrcise concurrent jurisdiction in all Bank and Customer matters ragardless of the distinct body of laws that may be peculiar to some of the banks as against bothers. The irony, however, is that the decision has never contemplated banks that are subject to distinct jurisprudence, in addition to the Banks and Other Financial Institututions Act (BOFIA) and the Central Bank of Nigeria Act.

In curing this unintended absurdity, in our law, brought about by the obvious reality, which has left Nigerian commercial law, surpassed by the actual commercial realities, the need has, indeed, arisen for filling the vaccuum by evolving the appropriate court of competetent jurisdiction, having the requisite scholarstic wherewithal to distil fine and complex issues of Islamic commercial jurisprudence, given the relevant specilised competence of the officers of such court in the applicable law to special sector.

Applying the Islamic interpetational principle of Qiyaas (analogization), therefore, the only court analogous to the Federal and State High Courts, in this context, can well be held to be the Sharia Court of Appeal, being the closest court of coordinate jurisdiction thereto.

PROSPECTS IN THE ADMINISTRATON OF JUSTICE IN SHARIAH COURTS

One important area that touches on prospects in the administration of justice in Shari‘ah courts that I would like to emphasize is the need for judges of the three courts identified above to maximize the use of alternative dispute resolution mechanism in resolving matters brought before the court. Experience has shown that it is very effective and time-saving. Kadis and judges of Area and Shari‘ah court can adopt admonition (*Nasihah*) as a tool for peaceful reconciliation between parties – the goal of every dispute resolution mechanism.

We have seen this work magic, many times and would like to enjoin learned judges to adequately explore the rich persuasive potentialities of scriptural provisions in managing the diputes of disputants before them.

CONCLUSION

It is hoped that foregoing has managed to raise some of the commonest issues with regards to administration of justice in the Nigerian Sharia courts. With partuicular regards to the identified procedural infractions and the miscarriage of justice, thereby accassioned, I am optimistic that paying due attention thereto in administation of justice by our courts would go a long way in driving home the unique strengths of the Shari'ah in dispute resolution and in assuming its status as a more effective adjucatory system.

As for issues that are largely due to constitutional or statututory jurisdictional limitations; particularly, as affects the Sharia Court of Appeal, more robust and constructive engagements with all stakeholders is strongly canvassed, that the urgent need may be realized for the necessary expansion of the adjudicatory jurisdiction of the Sharia Court of Appeal to cover all appeals, boardering on Islamic Law.

It is astonishingly noteworthy that of all the courts, created by the Constitution and designated by Section 6 (3) thereof as superior courts of record, it is only the the Sharia Court of Appeal, to the exclusion of all aother superior courts that lacks original adjudicatory jurisdiction in any matter, whatsoever; even in the face of the demand by the prevailing legal circumstances; especially, in the area of Islamic commercial jurisprudence.

Once again, I thank the Institute for this opportunity and I thank you all for your kind and rapt attention.