CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA
(ALTERATION) BILL, 2021
ARRANGEMENT OF CLAUSES

Clause:

1. Alteration of Cap. C23 LFN, 2004
2. Alteration of Section 6 of the Principal Act
3. Alteration of Section 84 of the Principal Act
4. Alteration of Section 185 of the Principal Act
5. Alteration of Section 240 of the Principal Act
6. Alteration of Section 246 of the Principal Act
7. Alteration of Section 247 of the Principal Act
8. Insertion of Part I G.
9. Insertion of Section 270A-E.
10. Insertion of Part 20
11. Insertion of new Section 285A-E
12. Alteration of Section 288 of the Principal Act
13. Alteration of Section 289 of the Principal Act
14. Alteration of Section 292 of the Principal Act
15. Alteration of Section 318 of the Principal Act
16. Alteration of the Second Schedule to the Principal Act
17. Alteration of the Third Schedule to the Principal Act
18. Alteration of the Sixth Schedule to the Principal Act
19. Alteration of the Seventh Schedule to the Principal Act
20. Short title
A BILL

FOR


Sponsored by; Senator Gyang Istifanus Dung

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria:

1. The Constitution of the Federal Republic of Nigeria 1999 (in this Bill referred to as "the Principal Act") is altered as set out in this Bill.

2. Section 6(5) of the Principal Act is altered by inserting two new subparagraphs (j) (aa)-(bb):

   "(j) (aa) the Ecclesiastical Court of Appeal of the Federal Capital Territory, Abuja;
   (bb) an Ecclesiastical Court of Appeal of a State;"

3. Section 84 of the Principal Act is altered in sub-section 4 by:

   (a) inserting immediately after the word "President and Judge of the Customary Court of Appeal of the Federal Capital Territory, Abuja," in lines 7 and 8, the words "Grand Cardinal and Cardinals of the Ecclesiastical Court of Appeal of the Federal Capital Territory, Abuja; and

   (b) inserting immediately after the words "President and Judge of the Customary Court of Appeal of a State," in lines 9 and 10, the words "High Cardinal and Cardinals of the Ecclesiastical Court of Appeal of a State,"
4. Section 185 of the Principal Act is altered in subsection 2 by inserting immediately after the words, "President of the Customary Court of Appeal of a State," in line 3, the words "Grand Cardinal of the Ecclesiastical Court of Appeal of a State".

5. Section 240 of the Principal Act is altered by:

(a) inserting immediately after the words, "Customary Court of Appeal of the Federal Capital Territory, Abuja," in lines 5 and 6, the words, "Ecclesiastical Court of Appeal of the Federal Capital Territory, Abuja"; and

(b) inserting immediately after the words "Customary Court of Appeal of a State," in lines 6 and 7, the words, "Ecclesiastical Court of Appeal of a State".

6. Section 246 of the Principal Act is altered by inserting a new section 246A:

"246A(1) An appeal shall lie from decisions of the Ecclesiastical Court of Appeal to the Court of Appeal as of right in any civil proceedings before the Ecclesiastical Court of Appeal with respect to any question of Ecclesiastical law or Christian personal law and such other matters as may be prescribed by an Act of the National Assembly.

(2) Any right of appeal to the Court of Appeal from the decision of an Ecclesiastical Court of Appeal conferred by this section shall be:

(a) exercisable at the instance of a party thereto or, with the leave of the Ecclesiastical Court of Appeal or of the Court of Appeal, at the instance of any other person having an interest in the matter;

(b) exercised in accordance with any Act of the National Assembly and rules of court for the time being in force regulating the powers, practice and procedure of the Court of Appeal."

7. Section 247(1) of the Principal Act is altered by inserting a new paragraph (c)

"(c) an Ecclesiastical Court of Appeal, if it consists of not less than 3 Justices learned in Ecclesiastical law or Christian personal law."
8. Chapter VII of the Principal Act is altered by inserting a new Part I G:

"G - The Ecclesiastical Court of Appeal of the Federal Capital Territory Abuja".

9. The Principal Act is altered by inserting a new section 270A-E

"270A - (1) There shall be an Ecclesiastical Court of Appeal for the Federal Capital Territory, Abuja.

(2) The Ecclesiastical Court of Appeal of the Federal Capital Territory shall consist of:

(a) a Grand Cardinal of the Ecclesiastical Court of Appeal;
(b) such number of Cardinals of the Ecclesiastical Court of Appeal as may be prescribed by an Act of the National Assembly.

270B - (1) The appointment of a person to the office of the Grand Cardinal of the Ecclesiastical Court of Appeal of the Federal Capital Territory, Abuja shall be made by the President on recommendation of the National Judicial Council, subject to the confirmation of such appointment by the Senate.

(2) The appointment of a person to the office of a Cardinal of the Ecclesiastical Court of Appeal of the Federal Capital Territory, Abuja shall be made by the President on the recommendation of the National Judicial Council.

(3) Apart from such other qualification as may be prescribed by an Act of the National Assembly, a person shall not be qualified to hold the office of Grand Cardinal or a Cardinal of an Ecclesiastical Court of Appeal of the Federal Capital Territory, Abuja unless:

(a) he is a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years and has obtained a recognized qualification in Ecclesiastical Law or Christian personal law from an institution acceptable to the National Judicial Council;
(b) he has attended and has obtained a recognized qualification in...
Ecclesiastical Law or Christian Personal Law from an institution approved by
the National Judicial Council and has held the qualification for a period of not
less than twelve years;
(c) he has either considerable experience in the practice of
Ecclesiastical Law or Christian Personal Law; or
(d) he is a distinguished scholar of Ecclesiastical Law or Christian
Personal Law.

(4) If the office of the Grand Cardinal of the Ecclesiastical Court of
Appeal is vacant or if the person holding the office is for any reason unable to
perform the functions of the office, then, until a person has been so appointed to
and has assumed the functions of that office or until the person holding the
office has resumed those functions, the President shall appoint the most senior
Cardinal from amongst the Cardinals of the Ecclesiastical Court of Appeal to
perform those functions.

(5) Except on the recommendation of the National Judicial Council,
an appointment pursuant to the provisions of subsection (4) of this section shall
cease to have effect after the expiration of three months from the date of such
appointment and the President shall not re-appoint a person whose
appointment has lapsed.

270C - (1) The Ecclesiastical Court of Appeal shall, in addition to
such other jurisdiction as may be conferred upon it by an Act of the National
Assembly exercise such appellate and supervisory jurisdiction in civil
proceedings involving questions of Ecclesiastical Law, Christian Personal
Law or Ecclesiastical Law.

(2) For the purposes of subsection (1) of this section, the
Ecclesiastical Court of Appeal shall be competent to decide:
(a) any question of Christian personal law regarding marriage
concluded in accordance with that law; including a question relating to the
validity or dissolution of such marriage or a question that depends on such a
marriage and relating to family relationship or the guardianship of an infant;
(b) where all the parties to the proceedings are Christians, any
question or Christian personal law regarding a marriage where no prior or
subsequent customary or statutory marriage is contracted, including the
validity or dissolution of that marriage, or regarding family relationship, a
foundling or the guardianship of an infant;

(c) any question of Christian personal law regarding a will or
succession where the endower, donor, testator or deceased person is a
Christian;

(d) any question of Christian personal law regarding an infant,
prodigal or person of unsound mind who is a Christian or the maintenance or
the guardianship of a Christian who is physically or mentally infirm; or

(e) where all the parties to the proceedings, being Christians, have
requested the court that hears the case in the first instance to determine, that
case in accordance with Christian personal law, or any question.

270D. For the purpose of exercising any jurisdiction conferred
upon it by this Constitution or any Act of the National Assembly, the
Ecclesiastical Court of Appeal shall be duly constituted if it consists of at
least three Cardinals of that Court.

270E. Subject to the provisions of any Act of the National
Assembly, the Grand Cardinal of the Ecclesiastical Court of Appeal of the
Federal Capital Territory, Abuja may make rules for regulating the practice
and procedure of the Ecclesiastical Court of Appeal of the Federal Capital
Territory, Abuja."

10. Chapter VII of the Principal Act is altered by inserting a new
Part 2 D:

"D - The Ecclesiastical Court of Appeal of a State".

11. The Principal Act is altered by inserting new sections 285A-E-
"285A (1) There shall be an Ecclesiastical Court of Appeal of a
State.

(2) The Ecclesiastical Court of Appeal of a State shall consist of:
(a) a Grand Cardinal of the Ecclesiastical Court of Appeal; and

(b) such number of Cardinals of the Ecclesiastical Court of Appeal as
may be prescribed by a law of the House of Assembly of a State.

285B (1) The appointment of a person to the office of the Grand
Cardinal of the Ecclesiastical Court of Appeal of a State shall be made by the
Governor of the State on recommendation of the National Judicial Council,
subject to the confirmation of such appointment by the House of Assembly of
the State.

(2) The appointment of a person to the office of a Cardinal of the
Ecclesiastical Court of Appeal of a State shall be made by the Governor of a
State on the recommendation of the National Judicial Council.

(3) Apart from such other qualification as may be prescribed by a Law
of the House of Assembly of a State, a person shall not be qualified to hold the
office of Grand Cardinal or a Cardinal of an Ecclesiastical Court of Appeal of a
State unless:

(a) he is a legal practitioner in Nigeria and has been so qualified for a
period of not less than ten years and has obtained a recognized qualification in
Ecclesiastical Law or Christian personal law from an institution acceptable to
the National Judicial Council;

(b) he has attended and has obtained a recognized qualification in
Ecclesiastical Law or Christian Personal Law from an institution approved by
the National Judicial Council and has held the qualification for a period of not
less than twelve years; and

(i) he has either considerable experience in the practice of
Ecclesiastical Law or Christian Personal Law: or

(ii) he is a distinguished scholar of Ecclesiastical Law or Christian
Personal Law.

(4) If the office of the Grand Cardinal of the Ecclesiastical Court of
Appeal is vacant or if the person holding the office is for any reason unable to
perform the functions of the office, then, until a person has been so appointed to
and has assumed the functions of that office or until the person holding the
office has resumed those functions, the Governor shall appoint the most
senior Cardinal from amongst the Cardinals of the Ecclesiastical Court of
Appeal to perform those functions.

(5) Except on the recommendation of the National Judicial
Council, an appointment pursuant to the provisions of subsection (4) of this
section shall cease to have effect after the expiration of three months from
the date of such appointment and the Governor shall not re-appoint a person
whose appointment has lapsed.

285C (1) The Ecclesiastical Court of Appeal shall, in addition to
such other jurisdiction as may be conferred upon it by a Law of the House of
Assembly of a State exercise such appellate and supervisory jurisdiction in
civil proceedings involving questions of Ecclesiastical Law, Christian
Personal Law or Ecclesiastical Law.

(2) For the purposes of subsection (1) of this section, the
Ecclesiastical Court of Appeal shall be competent to decide:

(a) any question of Christian personal law regarding marriage
concluded in accordance with that law, including a question relating to the
validity or dissolution of such marriage or a question that depends on such a
marriage and relating to family relationship or the guardianship of an infant;

(b) where all the parties to the proceedings are Christians, any
question or Christian personal law regarding a marriage where no prior or
subsequent customary or statutory marriage is contracted, including the
validity or dissolution of that marriage, or regarding family relationship, a
foundling or the guardianship of an infant;

(c) any question of Christian personal law regarding a will or
succession where the endower, donor, testator or deceased person is a
Christian;

(d) any question of Christian personal law regarding an infant,
prodigal or person of unsound mind who is a Christian or the maintenance or
the guardianship of a Christian who is physically or mentally infirm; or

(e) where all the parties to the proceedings, being Christians, have requested the court that hears the case in the first instance to determine, that case in accordance with Christian personal law, or any question.

285D. For the purpose of exercising any jurisdiction conferred upon it by this Constitution or a Law of the House of Assembly, the Ecclesiastical Court of Appeal shall be duly constituted if it consists of at least three Cardinals of that Court.

286E. Subject to the provisions of any Law of the House of Assembly of a State; the Grand Cardinal of the Ecclesiastical Court of Appeal of a State may make rules for regulating the practice and procedure of the Ecclesiastical Court of Appeal of the State."

12. Section 288 of the Principal Act is altered:

(a) in subsection 1 by inserting after the word, "law" in line 5, the words" persons learned in Christian personal law"; and

(b) in subsection 2 by inserting a new paragraph (c):

"(c) a person shall be deemed to be learned in Christian personal law if he is a legal practitioner in Nigeria and has been so qualified for a period of not less than fifteen years in the case of a Justice of the Supreme Court or not less than twelve years in the case of a Justice of a Court of Appeal and has in either case and in the opinion of the National Judicial Council considerable knowledge and experience in Christian personal law.

13. Section 289 of the Principal Act is altered:

(a) by deleting the word, "or" after the word," Appeal" in line 3; and

(b) by inserting after the word, " Appeal" in line 4, the words, "or Cardinal of the Ecclesiastical Court of Appeal".

14. Section 292 of the Principal Act is altered:

(a) in subsection (1) (a)(i):

(i) by deleting the word, "and" before the word, " President" in line 4, and
(ii) by inserting after the word, "Abuja" in line 5, the words, "and
Grand Cardinal of the Ecclesiastical Court of Appeal of the Federal Capital Territory Abuja",
(b) in subsection (1)(b)(ii) by:
(i) deleting the word, "or" after the word, "Appeal" in line 1; and
(ii) by inserting after the word, "State" in line 2, the words, "or
Grand Cardinal of the Ecclesiastical Court of Appeal of a State”.

15. Section 318 of the Principal Act is altered:
(a) in the interpretation of the words "judicial office":
(i) by inserting after the word, "Abuja" in line 8, the words, "the
Grand Cardinal of the Ecclesiastical Court of Appeal of the Federal Capital Territory, Abuja”;
(ii) by inserting after the word, "State" in line 10, the words, "or
Grand Cardinal of the Ecclesiastical Court of Appeal of a State”;
(b) in the interpretation of the words, "public service of the
Federation" by inserting after the word, "Abuja" in line 4, the words, "or the
Ecclesiastical Court of Appeal of the Federal Capital Territory, Abuja";
(c) in the interpretation of the words, "public service of a State" by
inserting after the word, "Appeal" in paragraph (b), line 2, the words, "the
Ecclesiastical Court of Appeal”.

16. The Second Schedule to the Principal Act is altered - in Part 1
item 61 by inserting after the words, "Customary law", in line 2, the words,
"Ecclesiastical Law”.

17. The Third Schedule to the Principal Act is altered:
(a) in Part I Item 20 by inserting a new sub paragraph (i)(aa):
"(i)(aa) one Grand Cardinal of Ecclesiastical Court of Appeal to be
appointed by the Chief Justice of Nigeria from among the Grand Cardinals
of the Ecclesiastical Court of Appeal to serve in rotation of two years;”
(b) in Part II item 21 by inserting after the word, "Abuja" in
paragraph (a) (ii), line 6, the words, "Grand Cardinal and Cardinals of the
Ecclesiastical Court of Appeal of the Federal Capital Territory, Abuja"; 
(c) In Part I item 21 by inserting after the word, "States" in paragraph 
(c), line 6, the words, "Grand Cardinal and Cardinals of the Ecclesiastical 
Court of Appeal of the States";
(d) In Part II C- State Judicial Service Commission:
(i) by inserting a new paragraph (f)(aa):
"(f) (aa) the Grand Cardinal of the Ecclesiastical Court of Appeal of the State, if any;"
(ii) by inserting in item 6, a new sub paragraph (vi)(aa):
"(iv)(aa) the Grand Cardinal of the Ecclesiastical Court of Appeal of the State, if any;"
(iii) by inserting a new paragraph (vii):
"(vii) Cardinal of the Ecclesiastical Court of Appeal of the State, if any;"
(e) by inserting in item 6 paragraph (c) before the word, "magistrates"
in line 3, the word "Ecclesiastical Court of Appeal";
(f) by inserting in Item 6 paragraph (c), by inserting immediately after the words, "Customary Courts" in line 4, the words "Ecclesiastical Courts";
(g) in Part III Item 1 - Judicial Service Committee of the Federal Capital Territory, Abuja by inserting a new paragraph (e)(aa):
"(e)(aa) the Grand Cardinal of the Ecclesiastical Court of Appeal of the Federal Capital Territory;"
(h) in Part III Item 2, Judicial Service Committee of the Federal Capital Territory, Abuja by inserting a new paragraph (a) sub paragraph"(vii)"
"(vii) a Cardinal of the Ecclesiastical Court of Appeal of the Federal Capital Territory;"
(i) in Part III Item 2(c), Judicial Service Committee of the Federal Capital Territory, Abuja by inserting immediately after the word "Abuja" in line 4, the words "Ecclesiastical Court of Appeal of the Federal Capital Territory".
20. This Bill may be cited as the Constitution of the Federal Republic of Nigeria (Alteration) Bill, 2021.

EXPLANATORY MEMORANDUM

This Bill seeks to alter the Constitution of the Federal Republic of Nigeria, Laws of the Federation Cap C23, 2004 to provide for the Ecclesiastical Court of Appeal of the Federal Capital Territory Abuja and the Ecclesiastical Court of Appeal of the States to provide for the functions, jurisdiction qualification and appointment and tenure of the Ecclesiastical Court of Appeal.