

THE PROPOSED ECCLESIASTICAL COURT OF APPEAL IN NIGERIA: PROBLEMS OF JURISDICTION AND PRACTICAL APPLICATION

By

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ABSTRACT

Against the backdrop that the 1999 Constitution provides for the creation of a Sharia Court of Appeal to hear and determine questions of Islamic Personal Law, there is a proposal for the establishment of an Ecclesiastical Court of Appeal to exercise jurisdiction over matters of Christian personal law. This writer embarked on a critical appraisal on the practicability of the proposed Ecclesiastical Court. The writer noted that Islamic law has its scriptural peculiarities that give it certainty. These peculiarities have no parallel in Christianity, as the Bible does not provide specific legal injunctions on marriage, divorce, guardianship and succession. Christian marriages are largely determined by culture and tradition rather than Christian personal law. Marriage within the Christian context is basically an indissoluble union for life, and to grant an Ecclesiastical Court established by the state powers to dissolve same appears farfetched. Guardianship and succession are hardly mentioned as binding legal concepts in the Bible. What constitutes Christian personal law in Nigeria must therefore be precisely identified in order to clothe the Ecclesiastical Courts with jurisdiction. Given the plethora of denominations that exist, a consensus of opinion on the subject matter does not appear practicable. To that extent this researcher concluded that the proposed Ecclesiastical Courts may end up being Courts without jurisdiction.

Keywords: Constitution, Islamic Personal Law, Sharia Court of Appeal, Ecclesiastical Court of Appeal, Jurisdiction.

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1.1 Introduction

An ecclesiastical court is a court that handles legal matters related to religious affairs, particularly within a specific religious denomination or community. In Nigeria, a bill has been proposed to establish such courts for Christians, which would handle issues relating to Christian personal law like marriage, wills, succession, and guardianship.¹ The Constitution makes provision for, "...a Customary Court of Appeal of the Federal Capital Territory, Abuja"² and for "...any state that requires it a Customary Court of Appeal for that State."³ The constitution confers on the Customary Court of Appeal jurisdiction to: "...exercise appellate and supervisory jurisdiction in civil proceedings involving questions of Customary Law."⁴ The Constitution further provides that "...a Customary Court of Appeal of a State shall exercise such jurisdiction and decide such questions as many be prescribed by the House of Assembly of the State for which it is established."⁵ The constitution also creates the Sharia Court of Appeal of the FCT which "...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 Islamic personal law. The constitution goes on to confer on the Sharia Court of Appeal jurisdiction to decide:

(a) any question of Islamic personal law regarding a marriage concluded in accordance with that law, including a question relating to the validity or dissolution of such a 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 proceeding are Muslims, any question of Islamic personal law regarding a marriage, including the validity or

¹ Godsgift Onyedinefu; In Nigeria Proposed Constitutional amendment to Establish Christian Court passes Second Reading; <https://constitutionnet.org>. accessed 27 March, 2025

² Section 265 1999 Constitution

³ Section 280 1999 Constitution

⁴ Section 280 (1)

⁵ Section 280 (2)

dissolution of that marriage, or regarding family relationship, a foundling or the guardianship of an infant;

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

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

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

On the face of it there appears to be a lacuna in the Nigerian legal system. Given the fact that Nigeria professes not to have a state religion, the jurisdiction conferred on the Sharia Court of Appeal to hear and determine question of Islamic personal law has led to agitations for the creation of a similar court to be created for adherents of the Christian faith. These agitations have metamorphosed into a bill for the creation of an Ecclesiastical Court of Appeal.

1.2 The Proposed Ecclesiastical Court of Appeal

There is a pending Bill (HB79) before the National Assembly for an Act to alter the Constitution of the Federal Republic of Nigeria, cap.c23, Laws of the Federation of Nigeria, 2004 to provide for the establishment of the Ecclesiastical Court of Appeal of the Federal Capital Territory Abuja and the Ecclesiastical Court of Appeal of the states; and for related matters.⁶ This Bill seeks to amend the Constitution to provide for a similar Court system to the Sharia Courts, unique to Christianity, for adjudicating matters related to Christian personal law and other ecclesiastical issues. The introduction of this bill is perceived as an effort to provide Christians with a parallel system of courts for handling personal law matters, thus establishing legal parity between different

⁶ Aishah Oyinlola HB 79: A Legislative Move Toward Ecclesiastical Courts in Nigeria <https://businessday.ng/news/article/bill-to-establish-christian-court-passes-second-reading-at-reps/>. Accessed on 27 March 2025.

religious groups. The jurisdiction of the proposed Ecclesiastical Courts would be issues such as Christian marriages, wills, succession, and guardianship.⁷

It is proposed that the Ecclesiastical Court of Appeal will have jurisdiction to determine:

- (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 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 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.

⁷ Ibid

It is to be noted that the jurisdiction proposed for the Ecclesiastical Court of Appeal is tailored along the same lines with the jurisdiction of the Sharia Court of Appeal. However, family law in Islam is easily deciphered by making specific references to verses in the Quran which are devoted to the subject. In Christianity as shall be examined subsequently, the position of marriage and divorce are not so straight forward.

1.3 What is an Ecclesiastical Court?

An **ecclesiastical court**, is a tribunal set up by religious authorities to deal with disputes among clerics or with spiritual matters involving either clerics or laymen. ...”⁸ Also called court Christian or court spiritual, it is “...any of certain non-adversarial courts conducted by church-approved officials having jurisdiction mainly in spiritual or religious matters. Historically, they interpret or apply canon law.”⁹ The Church of England’s ecclesiastical courts are the only religious courts that operate within the English legal framework. Each diocese of the Church of England has a court which is presided over by a judge appointed by the bishop. These traditionally held jurisdiction over defamation, probate, and matrimonial causes, as well as over both clergy and laity in relation to matters relating to church discipline and morality more generally. These powers were significantly scaled back in the 19th century to cover just church property and criminal conduct in relation to the clergy.¹⁰

Going by the above, Ecclesiastical Courts are historically concerned with religious or spiritual matters. These courts had ceased to function as regular courts in England by the time Nigeria fell under colonial subjugation. They therefore did not form part of Nigeria’s received English law. The Ecclesiastical courts in England today is an arm of the Church of England, and these courts retain their non-adversarial nature. They deal with:

“...control over any changes to certain types of church land and buildings, including many churches and churchyards. This is known as the ‘consistory court’ (or, in Canterbury diocese, the ‘commissary court’). The consistory court issues ‘faculties’ which are permissions authorizing

⁸ Ecclesiastical Court <https://www.britannica.com/topic/ecclesiastical-court>

⁹ The Ecclesiastical Courts <https://hansard.parliament.uk/Lords/1857-02-10/debates/03b17a48-6338-4288-a07a-9b8c4580da1c/TheEcclesiasticalCourts>. Accessed on 16 June 2025

¹⁰ Religious Courts <https://humanists.uk/campaigns/human-rights-and-equality/religious-courts/>, a

physical and other changes to buildings and land which are ‘consecrated’

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Changes to cathedrals are dealt with separately by a body called the Cathedrals Fabric Commission for England. Allegations of misconduct by members of the clergy are dealt with in bishops’ disciplinary tribunals (or the vicar-generals’ courts in the case of bishops and archbishops). Occasionally, there is an appeal from a consistory court or a disciplinary tribunal. Appeals are heard by different courts, depending on the subject matter of the case. Most appeals are heard by the Court of Arches in the Province of Canterbury and the Chancery Court in the Province of York...ritual or ceremonial and appeals in those cases are heard by the Court of Ecclesiastical Causes Reserved. The final courts of appeal are, from the Arches and Chancery Courts, the Judicial Committee of the Privy Council and, from the Court of Ecclesiastical Causes Reserved, a Commission of Review. No cases have, in fact, gone to the Privy Council or a Commission of Review in modern times and the Court of Ecclesiastical Causes Reserved has only sat twice.¹¹

The consistory court is presided over by a judge known as the ‘chancellor’ who is appointed by the diocesan Bishop. Chancellors take the judicial oath, as well as an oath confirming their historic formularies – the thirty nine articles of religion, the book of common prayer and the ordinal.¹² Ecclesiastical Courts in England are principally concerned with matters of faith and Church administration. They do not appear to hear and determine matters of Christian personal law.

1.4 The Constitutional Provisions on Sharia Court of Appeal

The 1999 Constitution creates a Sharia Court of Appeal for any state which desires same. The jurisdiction of this court is limited to Islamic personal law, and to that extent the Sharia Court of Appeal is not a religious court. Being a superior Court of record, to be appointed as a judge of the

¹¹ Ecclesiastical Courts <https://www.churchofengland.org/about/leadership-and-governance/ecclesiastical-courts>

¹² Ibid

Sharia Court of Appeal of the FCT or the States is strictly administered by legal practitioners who are qualified to be appointed as High Court judges.¹³ The Courts not administered by Islamic clerics.

The Qurān devotes attention to subjects such as marriage, divorce, and inheritance than it does to any other legal topic. Muslims in Nigeria generally adhere to the principles as a criterion in marriage, divorce and inheritance, which takes the place of customary law in their lives. There are other aspects of Islamic law, such as criminal law, taxation, and constitutional law,¹⁴ which clearly are not within the jurisdiction of the Sharia Court of Appeal. Thus where a Muslim is in default of performing a religious injunction, such a matter is not to be determined by the Sharia Court of Appeal. Muslim personal law has been defined as “...rules and regulations of social life, or the rules that regulate the day to day life of a person. In other words, the rules that a person should follow in his/her personal and social life...the personal and social laws of the Muslims.”¹⁵

In Islam, marriage involves legal, social and religious matters. Marriage is a contract, which permits wedlock and procreation and gives legal recognition of the parenthood of children. It has been held that Muslim marriage is not a sacrament, it is absolutely a civil contract. Marriage is the formal recognition of conjugal relationship of men and women and refraining them from adultery;¹⁶ expression of love and cordiality between men and women in a sacred way;¹⁷ maintenance and protection of a family and formation of a family. The Holy Quran prohibits a person from marrying his mother, daughter (and her offspring), sister, aunt, niece, foster-mother, foster-sister, and mother-in-law. A person also can not marry two sisters at a time.¹⁸ The point must be stressed here that these are divine laws which are scriptural, not the opinion of jurists or clerics.

¹³ See Sections 261 and 276 of the 1999 Constitution

¹⁴ Islamic Personal law <https://www.encyclopedia.com/environment/encyclopedias-almanacs-transcripts-and-maps/islamic-law-personal-law>. Accessed on 17 March, 2025

¹⁵ Ibid

¹⁶ Marriage Contracts in Islamic Jurisprudence <https://www.brandeis.edu/projects/fse/muslim/marriage.html>. Accessed on 17 March, 2025.

¹⁷ Ibid

¹⁸ What are prohibited relationships under the law? <https://nyaaya.org/legal-explainer/what-are-prohibited-relationships-under-the-law/>. Accessed on 18 March, 2025

1.5 An Overview Christian Personal Law

There is what is termed as Christian personal law or family law to regulate adoption, divorce, guardianship, marriage and succession in India. Marriages of Indian Christians are regulated by the Indian Christian Marriage Act, 1872. By the provisions of this law a husband or a wife can seek a divorce on the grounds of, adultery, cruelty, desertion for more than seven years, insanity for more than two years, incurable leprosy for more than two years, conversion to another religion, willful refusal to consummate the marriage, not being heard from for 7 years, venereal disease in communicable form for two years, and failure to obey the order for restitution of conjugal rights.¹⁹

The Christian Marriage Act of 1872 regulates Christian marriages in Bangladesh. Divorce laws fall under the Divorce Act of 1869, where either party can file for dissolution based on specific grounds such as adultery or cruelty.²⁰ Succession is governed by the Succession Act of 1925.²¹

It is easy to recommend that the Indian Christian Marriage Act should be replicated in Nigeria, but one can also easily foresee that this will meet with ready rejection by adherents of the faith. Indeed, how Christian are the Christian personal laws of India and Bangladesh? On the issue of divorce, while it is mentioned in the Bible, there are no clear cut principles. It has been suggested that Christianity carries "...no clear textual basis for a personal law."²²

Does the Bible contain rules and regulations of social life, or the rules that regulate the day to day life of a person? Many Christian denominations in Nigeria hold firm to the view that a marriage is a lifelong commitment between two persons, for better for worse, till death do them part.²³ One can say with certainty that in Nigeria, there will be no consensus of opinion on the issue of divorce, and grounds for divorce laid out in Christian personal law of India/Bangladesh. The Bible contains

¹⁹ Dr. Sebastian Champappily M.A., LL.M, Ph.D <https://www.canonlawsocietyofindia.org/research/christian-civil-law-and-penal-provisions/> Accessed on 17 May, 2024

²⁰ Legal Rights Under Family And Personal Laws In BD <https://juralacuity.com/family-and-personal-laws-in-bd/>. Accessed on 7 March, 2024.

²¹ Ibid

²² Chandra Mallapalli; How Christian Personal Laws Have Grappled with Equality,

²³ Solomon O. Ademiluka ;The spate of spousal homicide in Nigeria: Reconsidering the Christian divorce prohibition; <https://theologiaviatorum.org/index.php/tv/article/view/259/682>; Vitalis Terhemba Anaana' et al; Divorce And The Christian Church In Nigeria: Issues And Challenges . Accessed on 27 January, 2025 <https://www.igwebuikeresearchinstitute.org/journal/5.4.2.pdf>, Favour Uroko, Solomon I. Enobong; Divorce amongst Christian couples in Yoruba land: Challenges and implications, <https://hts.org.za/index.php/hts/article/view/7562/22544>, Accessed on 17 March, 2025

verses like: “They shall fine him a hundred shekels of silver and give them to the young woman’s father, because this man has given an Israelite virgin a bad name. She shall continue to be his wife; he must not divorce her as long as he lives.”²⁴ “The man who hates and divorces his wife,” says the Lord, the God of Israel, “does violence to the one he should protect,” says the Lord Almighty.”²⁵ “But I tell you that anyone who divorces his wife, except for sexual immorality, makes her the victim of adultery, and anyone who marries a divorced woman commits adultery.”²⁶ The common vows taken by couples in Church include the vow to remain together in sickness and in health, till death do them part. It can be conveniently argued that the law in India which permits divorce when a spouse has incurable leprosy does not derive its inspiration from the Bible.

What constitutes Christian personal law on marriage in Nigeria is another difficult issue to locate with precision. The common denominator among the different denominations is the belief that a Christian marriage is a monogamous union for life, but there is no uniformity in how this is to be achieved. In practice most denominations insist that all traditional/customary rites be performed before the Church vows are taken.²⁷ The steps to be taken before approaching the Church vary according to culture. It is hard to fathom for now a scenario where an intending couple will directly approach a Church without the blessings of the parents.

It is proposed that the Ecclesiastical Court of Appeal should have jurisdiction to hear and determine inter-alia “...any question of Christian Personal Law...including a question relating to the validity or dissolution of such marriage...any Question...regarding a marriage where no prior or subsequent customary or statutory marriage is contracted, including the validity or dissolution of that marriage...”²⁸ Will the judgment of this Court be binding on all denominations, and will the denominations willingly submit to the authority of this Court? It has been held that “In Christian marriage, which implies the restoration, by Christ Himself, of marriage to its original indissolubility, there can never be an absolute divorce, at least after the marriage has been

²⁴ Deuteronomy 22:19, NIV

²⁵ Malachi 2:16, NIV

²⁶ Matthew 5:32, NIV

²⁷ Titus Ikechukwu Nnabugwu; The Integration of The Traditional And Christian Marriage Rites In Nigeria: Untying The Legal Knots; <https://journals.ezenwaohaetorc.org/index.php/Ministerium/article/download/643/2022>. Accessed on 17 March, 2022.

²⁸ HB 79: A Legislative Move Toward Ecclesiastical Courts in Nigeria <https://naltf.gov.ng/hb-79-a-legislative-move-toward-ecclesiastical-courts-in-nigeria/> Accessed on 26 February 2025.

consummated.”²⁹ The dissolution of Christian marriages by an Ecclesiastical Court can only generate controversy, rather than cure an existing societal ill. When Christians marry in Church, the practice is for the Church to issue its own marriage certificate. Church membership comes with many privileges like appointment or election into the laity council, appointment or election as a Deacon or Church elder. These privileges are by Church doctrine the exclusive preserve of members who have a valid and subsisting Church marriage. The Church exerts its control over its members by making its own rules, and divorce is an automatic disqualification to leadership at the laity level. One cannot fathom that the various Christian denominations in Nigeria will accept to cede their control over members to an Ecclesiastical Court to dissolve marriages.

The Ecclesiastical Court of Appeal also is to have jurisdiction over “...any question of Christian Personal Law regarding a will or succession where the endower, donor, testator or deceased person is a Christian...any question...regarding an infant, prodigal...or the maintenance or the guardianship of a Christian who is physically or mentally infirm...”³⁰ These are issues the Bible is largely silent about. On the issue of inheritance for instance, the Bible records Jesus addressing it thus; “Someone in the crowd said to him, “Teacher, tell my brother to divide the inheritance with me.” But he said to him, “Man, who made me a judge or arbitrator over you?” And he said to them, “Take care, and be on your guard against all covetousness, for one's life does not consist in the abundance of his possessions.”³¹ Generally Nigerian Christians marry under customary law before a ceremony in Church blessing the union. In some cases, no formal ceremony is held. When Nigerian Christians marry under the Marriage Act, this is hardly done ignoring the traditional marriage rites which “...are intended not only to confer full traditional rights on the husband over his wife and children born into the marriage, but also to enhance the status of the girl in the society...”³² It has been asserted that “...marriage for Africans, including Nigerian Christians, is

²⁹Divorce <https://www.catholic.com/encyclopedia/divorce>. Accessed on 17 March, 2025

³⁰ HB 79; op cit

³¹ Luke 12: 13-16

³² Emmanuel Echezolochi Amadi & Uwom Kenoye Ophangharanan Igoniko; The Significance Of Traditional Marriage Rites In Etche, South-South Nigeria<https://sgojahds.com/index.php/SGOJAHDS/article/view/462>. Accessed on 17 March, 2023.

the traditional marriage, with the Church marriage regarded as an appendage and merely conferring it with greater social prestige.”³³

The laws of succession among Nigerian Christians is basically customary law and the common law doctrine of equity and good conscience. From a plethora of decided cases, it is now established that customary laws of succession will only be enforced where they are not repugnant to equity and good conscience. The Christian law of succession is again a nebulous idea, and will pose a problem for the proposed Ecclesiastical Courts.

The following extract highlights the issues that led to search for a Christian personal law in colonial India:

During the 19th century the conditions of Christians in British India was challenging. Since they were primarily Muslims or Hindus who had converted, their old religious laws no longer applied to them. So, it was not clear what kinds of laws applied to them and their offspring. It was also impossible to apply English law in cases of succession, marriage, divorce, etc. because they weren't even British. Then the need for a new personal law emerged because Indian Christians found themselves in a legal void which then resulted in the need for a new personal law because there is no Christian law in the sense same of Hindu or Muslim law.³⁴

What was termed as Christian personal law in India came about in the search for administrative convenience. The factors that led to the formulation of the concept of Christian personal law in India in the 19th century do not apply to Nigeria where the received English law and customary law adequately cover marriage, divorce, and inheritance among Christians. Those who marry

³³ Titus Ikechukwu Nnabugwu; The Integration Of The Traditional And Christian Marriage Rites In Nigeria: Untying The Legal Knots <https://journals.ezenwaohaetorc.org/index.php/Ministerium/article/download/643/2022>. Accessed on 7 December, 2022

³⁴ Anna Drwal; The Formation of Christian Personal Law in British India from 1865 to 1872; <https://ruj.uj.edu.pl/server/api/core/bitstreams/bb8c9a48-c3c8-4413-bfa5-41838f8163c7/content>; Nandini Chatterjee; Religious change, social conflict and legal competition: the emergence of Christian personal law in colonial India; <https://www.cambridge.org/core/journals/modern-asian-studies/article/abs/religious-change-social-conflict-and-legal-competition-the-emergence-of-christian-personal-law-in-colonial-india>. Accessed on 17 March, 2025

under the Marriage Act in Nigeria and follow it up with a church blessing can be said to conduct Christian marriage, and the High Courts have jurisdiction over such marriages. For Christians who under customary law, the Area or Customary Courts have jurisdiction over matters arising from such marriages. Appeals from the decisions of these Court lie at the Customary Court of Appeal. The different Christian denominations are well endowed with non-adversarial adjudicating bodies that handle family law related disputes. There is no void within the system that necessitates the creation of an Ecclesiastical Court.

1.6 The Proposed Ecclesiastical Court of Appeal and the Problem of Jurisdiction

Where there is a wrong, there is a remedy. The existing Court system as provided for by the constitution is said to be inadequate because while a Sharia Court of Appeal has been created for Muslims, there is no corresponding Court for Nigerian Christians. This appears to be the guiding sentiment for the calls for the creation of the Ecclesiastical Court of Appeal.

This research has not been able to locate exact void or lacuna for Christians in the existing Court system. The proposed Ecclesiastical Court will encounter the problem of what law to apply in reaching binding decisions.

An essential feature of the law to be applied by the Courts is the requirement of certainty. The law should be certain, so that it can be easily enforced and so that people can know where they stand.³⁵ The law must be accessible and so far as possible intelligible, clear and predictable. Questions of legal right and liability should ordinarily be resolved by the application of the law and not the exercise of discretion.³⁶ For the rule of law to thrive in society there is the need for the law to be clear, publicized, stable and applied evenly. It ensures human rights as well as property, contract, and procedural rights.³⁷ Legal certainty connotes that the law must be clear, precise and unambiguous, and its legal implications foreseeable.³⁸ The certainty of law is the key tool of the legal practitioner, as it is the fulcrum of all legal advice.

³⁵ Should the law be certain? The Oxford Shrieval lecture given in the University Church of St Mary The Virgin, Oxford on 11th October 2011 https://supremecourt.uk/uploads/speech_111011_342362219c.pdf. Accessed on 17 September, 2023

³⁶ Ibid

³⁷ William H. Neukom; What is the Rule of Law? <https://worldjusticeproject.org/about-us/overview/what-rule-law>

³⁸ Legal Certainty Definition; <https://www.lexisnexis.co.uk/legal/glossary/legal-certainty>. Accessed on 17 March, 2025

The concept of Christian personal law remains nebulous and will continue to be debated. The law must be worded in a way that it is clearly understandable by those who are subject to it. Under Islamic law there is a distinct pattern. The absence of this distinct pattern does not rob Christianity of its authenticity as a faith. To drive home the point on the need for law to be certain, the inheritance laws in the Quran shall be briefly examined.

Most inheritance laws in the Quran come from Surah Nisa'a (chapter 4). The verses describe the inheritance rights of the descendants (children) and ascendants (parents). Allah decrees a will for your children; the male gets twice the share of the female. If the heirs are women, more than two, they receive two thirds of the estate. If only one daughter is left, she gets one half. The parents of the deceased are each entitled to one sixth if he has left offspring. If he left no children and his parents are the only heirs, his mother gets one third. If he has siblings, then his mother gets one sixth after the fulfillment of any will the deceased has left and after the payment of all debts. Your parents or your children – you know not which of them are nearest to you in benefit. [These shares are] an obligation [imposed] by Allah. Indeed, Allah is ever Knowing and Wise.³⁹

One does not require any vast knowledge of Islamic law to understand the above quotation. There is a clear and unambiguous mode of distribution of estate, and as such judges are guided by this injunction and not their discretion. But there is no parallel pattern in the Bible, and indeed, there does not have to be. In the same vein divorce in Islam has well laid rules laid down in the Quran, including obligations and entitlements of parties, what constitutes a lawful divorce, and the waiting period after the pronouncement of divorce.⁴⁰ There is no gainsaying the fact that the Bible does not provide a template for divorce. In the absence of such a template, what is the Christian personal law of inheritance or divorce to be applied by the proposed Ecclesiastical Court of Appeal? This

³⁹ Inheritance in the Quran <https://www.islamicwillsusa.com/law-of-inheritance-in-quran/>

⁴⁰ See for instance Talaq-The Divorce; <https://al-islam.org/alphabetical-index-holy-quran/talaq-divorce>; Quran Verses on Divorce; <https://al-islam.org/alphabetical-index-holy-quran/talaq-divorce>; Sura Al-Talaq; <https://quran.com/at-talaq> Accessed on 18 June, 2025

research could not find a satisfactory answer to this question; not even by those who have agitated for the creation of the Ecclesiastical Court of Appeal.

1.7 Conclusion

The process of acculturation between Christianity and customary law is one in which Nigerian Christians practice their faith alongside their traditional practices that do not directly conflict with their faith. Nigerian Christians can therefore marry traditionally before celebrating the marriage in Church. Islam on the other hand has injunctions that assimilate the followers, and takes the place of tradition and culture in personal relations. The main source of Islamic personal law is the Quran which provides with certainty laws to guide the social life of its adherents. Christianity on the other hand does not provide with certainty such laws. An attempt to locate Christian personal law within the Nigerian context will therefore most certainly end up in the cul-de-sac of unresolved debate.

Laws are made to fill a void in society. Within the Nigerian legal system, this research has not located any lacuna that necessitates the need for the creation of an Ecclesiastical Court of Appeal. This Court will when established face the difficulty of having any practical jurisdiction owing to the fact that the concept of Christian personal law is more of an ideal than a reality.