

**LEAD DEBATE A BILL FOR AN ACT TO AMEND THE  
ADMINISTRATION OF CRIMINAL JUSTICE ACT 2015  
AND OTHER RELATED MATTERS 2020.**

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Mr. President, My Distinguished Colleagues, You may wish to recall that this bill passed first reading on 30<sup>th</sup> June,2020. It is also worthy of note that this would be the first time an attempt is made to amend the law since it became an Act in 2015.

This bill therefore seeks to amend the Administration of Criminal Justice Act of 2015,the Sections contradicting the principles of fair hearing and court jurisdiction as provided in the Constitution. This is to further avert some loggerheads between the administration of criminal justice Act and the constitution.

The following Mr. President are some of the recommendations:  
1. That Section 8 (4) of the Principal Act which provides- “The arraignment and trial of a suspect for a crime shall be in accordance with the provision of this Act unless otherwise stated in this Act” be amended by deleting “unless otherwise stated in this Act” by inserting “and the constitution of the Federal Republic of Nigeria.”The reason is that the Constitution the Supreme law of the land provides in section 1(1) as follows;

“This Constitution is Supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria,”

In view of the above provision of the constitution, all authorities in Nigeria shall conform to the constitutional provision.” Therefore the administration of criminal Justice Act shall also conform with the supreme provision of the constitution 1999 as amended.

Furthermore, the Court has held that the 1999 Constitution as amended is the fundamental law on which every law in Nigeria rest. Moreso, the Supreme Court per Fabiyi JSC on the Supremacy of the constitution of the Federal Republic of Nigeria said “ The Constitution of Nigeria is the grundnorm, other wise known as the basic norm from which all the other laws in the society drive their validity.

Each legal norm of the society drive its validity from the basic norm. Any other law that is inconsitent with the provisions of the constitution must give way or abate.” The Court has also held that- “The constitution of a nation is the ‘fons et origo’ not only of the Juriprudence but also of legal system.

In Greek language, it is the alpha and omega. It is the barometer with which all statutes are measured.

Section 253 of the Constitution provides "The Federal High Court shall be duly constituted if it consists of at least one Judge of that Court".

Further more ,section 273 provides "for the purpose of exercising any jurisdiction conferred upon it under this constitution or any law ,a High Court of a State shall be duly constituted if it consist of at least one Judge of that Court,"

Moreso, the Court of Appeal has held as follows that the provision of Section 273 of the Constitution of the Federal Republic of Nigeria,1999,a simple judge sitting in the High Court is qualified and had the power to try criminal offences."

Reading the provisions of Sections 253 and Section 273 together with Section 237 of the Constitution 1999 as amended,which clearly spelt out the composition of the judges of the High Court,the Court of Appeal and the powers to hear and determine matters before them equally provided for by the same constitution.

The Constitution should be read together on provisions to with establishment,composition and jurisdiction of courts.

The various High Court Rules and Court of Appeal Rules have provisions with regards to the position of pending cases, when judges are elevated. More often the position is for the matter to start denovo. However, to allow a Judge who is elevated to a Court of Appeal to determine cases before him, while a High Court Judge will raise the issue of jurisdiction.

Although the constitution says in Section 252(2) that the National Assembly will by law make provision conferring upon the Federal High Court additional powers to those conferred by the Constitution, yet there exist a lacuna in respect of the position of an elevated judge from the High Court to the Court of Appeal(that is there is a gap that need to be filled).

Finally, it will be advisable that the constitution be amended to expressly handle the gap created when judges are elevated to the next bench be given the right or powers to conclude part heard cases on elevation before moving to the next level.

In view of the aforementioned we submit on with issues raised that Constitutional amendment is the best option to take care of such lacuna.

Further general observation, our judicial system recognizes and apply the rule of stare decisis, meaning rules of precedent and hierarchy of courts.

More so ,courts are classified accordingly the Constitution and other extent laws ,we should clearly demarcate or clearly spell out jurisdiction of court to avoid contradiction and uncertainty.

Mr.President,Distinguished Colleagues we can still set lofty goals for ourselves. I hope we can agree that, with this amendment, we aspire to create a criminal justice administration legislation that is both more effective and more humane. By “more effective,” I mean that we should respond to crime in ways that produce socially desirable results—greater safety, less fear, less suffering, greater respect for the rule of law and less injustice—and that we do so efficiently, investing our precious financial and human resources in ways that maximize the results we desire. By “more humane,” I mean we should respond to crime in ways that recognize the humanity of those victimized by crime, those arrested and convicted of crime, and others who experience the ripple effects of crime and our justice system. This affirmation of humanity, as I see it, incorporates values we hold dear in our democracy, such as equal protection of the laws, access to the rights guaranteed by our Constitution, and our fundamental belief in the dignity of the individual.

Thank you Mr.President and my Distinguished Colleagues.