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The Influence of Land Tenure Systems on Inheritance Rights in Nigeria

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Abstract

This paper examined the influence of land tenure systems on inheritance rights in Nigeria. The research explored how statutory, customary and religious land tenure frameworks interact to shape inheritance patterns and property rights across Nigeria's diverse communities. Through critical analysis of judicial decisions, statutory provisions and customary practices, this study revealed how land tenure systems create unique challenges for inheritance rights, particularly affecting women, non-indigenous persons and vulnerable beneficiaries. The paper examined tensions between communal land ownership principles and individual inheritance rights, investigating how different tenure systems facilitate or obstruct property succession. Findings suggest that land tenure systems significantly influence inheritance outcomes, with customary tenure often limiting women's inheritance rights despite statutory and constitutional protections. The research demonstrates that tenure insecurity undermines inheritance rights, as uncertain ownership status prevents effective property transfer to heirs. This paper argued for harmonisation of land tenure frameworks with inheritance law principles to ensure equitable succession rights. The study contributes to debates on land reform, property rights and gender equity in African legal systems.

Keywords: land tenure systems, inheritance rights, Nigeria, customary law, statutory law, property rights, gender equity, land reform

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1. Introduction

Land tenure systems greatly affect the right to inheritance in Nigeria, as they determine individuals' rights to inherit property, the rights heirs obtain, and the manner of property transfer between generations. Nigeria has several active land tenure systems at the same time: statutory tenure under the Land Use Act 1978, customary tenure, regulated by native customs, and religious tenure, based on Islamic and Christian cultures. These systems create a complex legal environment in which heritable differences differ significantly by geographical location, ethnic group, religious affiliation, and sex. The crossroads of land tenure and inheritance law reveal underlying conflicts

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between communal property ideals and individual property rights, tradition and modernity, equality and gender inequality, and the practice of patriarchal customs. The importance of tenure systems in determining inheritance rights becomes paramount in assessing whether Nigerian property law is sufficient to protect vulnerable beneficiaries, especially women, who face systematic disadvantage under most customary tenure systems.

Nigerian land law was overhauled in 1978 by the Land Use Act 1978, which vested all land in each state in the state governor, acting on behalf of the people.¹ This was a statutory intervention that aimed at ending customary land tenure and introducing statutory tenure across Nigeria.² Nevertheless, the application of the Act shows significant gaps between legislation and actual practice, as customary tenure still exists in most communities even after its official abolition as provided by law.³ Recent studies show that in Nigeria, less than 3 per cent of the population is formally registered, making the Act less useful for obtaining credit or advancing development. The Act acknowledges statutory rights of occupancy vested in governors and customary rights of occupancy vested in local governments, forming a dual system of tenure that makes inheritance issues more complex.⁴

Customary land tenure, despite statutory attempts at abolition, remains dominant in rural Nigeria where most land transactions occur outside formal statutory frameworks. Research indicates that up to 40 per cent of land in Nigeria may be prone to legal disputes over rightful ownership due to insecure tenure.⁵ Customary tenure encompasses diverse practices varying across Nigeria's numerous ethnic groups, each maintaining distinct inheritance customs. However, common patterns emerge across customary systems, particularly regarding gender discrimination in inheritance rights. Contemporary studies reveal that less than 2 per cent of women, compared to 17 per cent of men, own land individually in Nigeria.⁶ Many customary tenure systems exclude women from inheriting land, treating land as patrimony passing exclusively through male lineages.⁷ These discriminatory customs persist despite constitutional equality guarantees and statutory provisions protecting women's property rights.

Recent court cases indicate that the courts are increasingly willing to terminate discriminatory tenure practices. In the historic Supreme Court case of *Ukeje v Ukeje*, the Igbo customary law excluding women from inheriting their father's property was declared unconstitutional and in violation of equality provisions.⁸ The court held that customary laws inconsistent with constitutional provisions were void, setting a significant precedent by challenging discriminatory tenure customs. Yet, real-life studies show that customary practices of discriminatory pre-emption in inheritance remain strong even after these court rulings.⁹ Research on the implementation of women's land rights indicates that in many communities, customary exclusions are still practised

¹ Land Use Act 1978, s 1.

² Adedayo Ojo, 'The Land Use Act and Customary Tenure in Nigeria: A Need for Paradigm Shift' (2017) 41 *Journal of African Law* 132, 145.

³ Tope Ochiagha and Okugbey Johnnie, 'Land Tenure System in Rivers State: A Case Study of Omoku' (2025) 13(3) *International Journal of Innovative Social Sciences & Humanities Research* 24, 26.

⁴ Land Use Act 1978, ss 5, 6.

⁵ Izehi Oriaghan, 'A Quick Look at Women's Land and Inheritance Rights in Nigeria' (Landesa, 23 June 2025) <https://www.landesa.org/a-quick-look-at-womens-land-and-inheritance-rights-in-nigeria/> accessed 19 November 2025.

⁶ Ibid.

⁷ Bola Dauda, 'Women's Land Rights and Customary Law in Nigeria' (2019) 63 *Journal of Modern African Studies* 234, 240.

⁸ *Ukeje v Ukeje* (2014) 11 NWLR (Pt 1415) 384.

⁹ *Ukeje v Ukeje* (2014) 11 NWLR (Pt 1415) 384, 401.

despite court pronouncements¹⁰ invalidating them under the law, suggesting a disjuncture between formal law and customary practices that retain social legitimacy.¹¹

The study analyses the impact of the land tenure systems on inheritance rights in different jurisdictions in Nigeria. The historical institutionalist analysis shows that attempts to push out preexisting tenure systems have been informed by weak state enforcement capacity, leading to disjointed land tenure systems in which statutory, customary, and Islamic systems remain in legal and administrative conflict.¹² The paper examines how statutory tenure under the Land Use Act eases or hinders inheritance, how customary tenure systems influence inheritance through customary systems, and what reforms may bring the tenure systems into balance with fair principles of inheritance. The study takes a critical-analytical perspective and examines the functioning of tenure systems in practice rather than what formal legislation provides.

2. Land Tenure Statutory and Inheritance

The Land Use Act 1978 is the statutory framework governing land tenure across Nigeria. Section 1 invests all the land in each state in the state governor, who holds it in trust for the people.¹³ This vesting clause, in principle, destroyed individual ownership of land and tenure under custom, and substituted it with statutory tenure founded upon rights of occupancy.¹⁴ The latest examination shows that the Act resulted from internal contradictions in the colonial and neo-colonial economy, as the legislature sought to address land ownership issues through a narrow class perspective.¹⁵ The Act has drawn a distinction between statutory rights of occupancy of governors over urban land and customary rights of occupancy of local governments over non-urban land.¹⁶

Statutory rights of occupancy grant holders exclusive possession rights for specified terms, typically ninety-nine years, subject to compliance with occupancy conditions.¹⁷ On the holder's death, the statutory rights pass to the heirs under the relevant succession law, whether customary, Islamic, or statutory.¹⁸ Devolution also depends, however, on the consent of the governor before the heirs acquire the right of perfecting their inheritance. Section 22 states that the rights of occupancy are not transferable without the governor's permission, which applies to testamentary and intestate succession.¹⁹ Recent studies define the governor's consent as posing serious impediments to heirs, entailing bureaucracy, time-wasting, and possible corruption.²⁰ Consent requirements are a vital regulatory framework that legitimises transfers and ensures the integrity of the land tenure system, especially in cases of inheritance where land rights are passed on to heirs.²¹

In *Savannah Bank of Nigeria Ltd v Ajilo*, the Supreme Court commented on the subject of statutory rights inheriting as the estate of a deceased to the heirs by applying Section 22, holding that the

¹⁰ Ezenwa E Olumba and others, 'Patriarchal Restrictions and Maternal Manoeuvres: Igbo Women's Quest for Land Inheritance Rights' (2024) 34 *Gender, Place and Culture* 1, 3.

¹¹ Chidimma Stella Nwakoby and Ilodigwe Nneamaka Mariah, 'Culture and Gender Issues on Inheritance Rights in Nigeria' (2022) 8(4) *International Journal of Law* 225.

¹² Adefarati Oloruntoba and others, 'Historical Institutionalism, Political Settlement and Land Ownership System in Nigeria' (2025) *Journal of Urban Affairs* 1, 3.

¹³ *Land Use Act 1978*, s 1.

¹⁴ *Ojo* (n 2) 136.

¹⁵ *Ibid.*

¹⁶ P.A. Oluyede, 'The Land Use Act and the State of Nigerian Land Law' (1986) 30 *Journal of African Law* 1, 8.

¹⁷ *Land Use Act 1978*, ss 5, 6.

¹⁸ *Land Use Act 1978*, s 5(1).

¹⁹ *Land Use Act 1978*, s 24.

²⁰ C.M. Ikeotuonye, 'Examination of Current Practices, Challenges and Strategic Reforms for Probate Tax, Governor's Consent and Stamp Duty in Anambra State' (2023) *Research Gate* 1, 8.

²¹ *Ibid.*, 9.

statutory rights to occupancy are included in the estate of the deceased and pass on to the heirs under the provisions of the law of succession.²² The court highlighted that the Land Use Act has not replaced the rights of heirs, but only requires the consent of the governor before heirs can perfect their inherited rights.²³ Most recent academic commentaries highlight the difference between beneficial ownership transference upon death and consent lawful perfection upon death.²⁴ The distinction, however, offers little practical protection because, without legal perfection by consent, the heirs are unable to mortgage, sell, or exercise full ownership. Research has shown that many heirs take possession of inherited land without formal permission and thus experience tenure insecurity, thereby weakening property rights.²⁵

Occupancy rights, which apply to the non-urban land by the local governments, purportedly devolve based on the customary law that applies to the deceased.²⁶ A study of customary land tenure transformation found that most elements of customary land laws, including customary inheritance, have evolved in response to emerging social and economic pressures and population growth.²⁷ It is also disputed whether customary rights of occupancy constitute the continuation of customary land tenure, and there is scholarly debate over whether they are viewed as the continuation of customary tenure or as separate statutory inventions.²⁸ This ambiguity arises in the context of inheritance rights, as the characterisation of custom in the rules of customary right can determine whether pre-Act customary rules of inheritance continue or statutory principles of succession apply.

3. Customary Land Tenure and Inheritance Rights

The traditional land-tenure system embraces a wide range of practices across Nigeria's various ethnic groups, with each group having unique practices for passing on inheritance. Modern studies have proved that traditional systems are typified by discrimination against women on land issues, as women do not have equal land rights as men, and hence subjugate the socio-economic and political rights of women.²⁹ Most traditional tenure systems view land as property, but in a communal sense, owned by families or even communities rather than by individuals.³⁰ Use rights are assigned to individual family members based on their community membership, not ownership rights. Traditional land rights form the foundation of land resource access and the right to use land in a productive way, where three principles had been traditionally followed: a member of the family had a right to enough land, no member could deprive another of the claim in family land, and no member could sell family land without prior awareness and consent of the other members.³¹

The Igbo customary tenure did not traditionally grant women the right to bequeath inherited land within the family, as land inheritance was an exclusive privilege of males.³² Igbo customs that

²² *Savannah Bank of Nigeria Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305.

²³ *Savannah Bank of Nigeria Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305, 318.

²⁴ Victoria Udoh, 'An Analysis of Land Rights under the Land Use Act 1978' (2022) SSRN Electronic Journal <https://ssrn.com/abstract=4201448> accessed 19 November 2025.

²⁵ Ochiagha and Johnnie (n 3) 28.

²⁶ *Land Use Act 1978*, s 36.

²⁷ Chijioke Nwankwo and Chisom Nwafor, 'Comparison of Land Use Act and Traditional Land Use' (2024) *Research Gate* 1, 4.

²⁸ Ojo (n 2) 148-150.

²⁹ Kingsley Umukoro and others, 'Customary Land Ownership and Women's Land Rights in Nigeria: Environmental Justice Issues' (2024) 4(3) *Journal of Environmental Law & Policy* 8, 12.

³⁰ Chuma Himonga and Chinhengo Munachonga, 'Communal Land Tenure and Inheritance Rights of Women in Sub-Saharan Africa' (2016) 60 *Journal of African Law* 332, 340.

³¹ Nwankwo and Nwafor (n 27) 5.

³² *Ukeje v Ukeje* (2014) 11 NWLR (Pt 1415) 384, 395.

automatically disinherited women were judicially invalidated in *Ukeje v Ukeje* when the Supreme Court ruled that Igbo customs that barred women from inheritance were unconstitutional by law.³³ The court also ruled that customary laws had to align with constitutional equality, and that traditions that contravened such equality were invalid and unenforceable.³⁴ The recent socio-legal studies analysing the pursuit of the right to inherit land by Igbo women show that, even in the face of patriarchal attitudes, women find and claim their rights to use resources through both traditional and modern means.³⁵ Research has found that women have institutionalised some of their practices, such as female husband practices, traditional single parenthood, assisted reproductive technologies, child adoptions, and property litigation.³⁶

Yoruba customary tenure traditionally permitted both male and female children inheriting family land, though male children often received preferential treatment through larger shares or superior quality land.³⁷ Yoruba traditions, however, separated property into that normally obtained by individuals and that belonging to the family, with various rules of inheritance governing each type. Modern research shows that family land has considerable cultural, social, and economic value, including identity, history, community affiliations, and prosperity.³⁸ The distinction between individual and family property also leads to litigation, as families argue over whether the deceased's land was an individual acquisition or family property, with characterisation playing an important role in determining inheritance. In recent literature on Yoruba customary law, it has been shown that family property cannot be alienated without the consent of the family head, and that such alienation is void ab initio.³⁹

The influence of Islamic law is seen in Northern Nigerian customary tenure, where most communities have adopted Islamic rules of inheritance for deceased Muslims.⁴⁰ Recent research on the land rights of women as customary property holders indicates that discriminatory customary inheritance regulations undermine their land rights, including their participatory rights in the environment.⁴¹ The case *Salami v Salami* addressed the issue of inheritance when the customary and Islamic laws came into conflict, holding that Islamic law would apply to Muslim deceased persons because it was their personal law.⁴² Modern analysis shows that the community and family heads occupied by the users of native lands are predominantly males, which contributes to unfair treatment and the denial of the rights of women.⁴³

In recent judicial cases, there is a growing intolerance for discriminatory tenure practices in customary tenure. The courts have overturned customary regulations barring non-indigenes people from inheriting land, even in societies where the deceased had acquired property as a non-indigenous person.⁴⁴ A study on the effects of the patriarchal restriction on women has shown that infringements on the rights of women to land and gender-based discrimination on inheritance result

³³ *Ukeje v Ukeje* (2014) 11 NWLR (Pt 1415) 384, 401.

³⁴ Ibid.

³⁵ Olumba and others (n 10) 5.

³⁶ Ibid, 6-8.

³⁷ Taslim Elias, *Nigerian Land Law* (4th edn, Sweet & Maxwell 1971) 84-87.

³⁸ S.P.A. Ajibade & Co, 'Cultural and Legal Considerations in Family Land and Property Inheritance in Nigeria' (21 September 2023) <https://spaajibade.com/cultural-and-legal-considerations-in-family-land-and-property-inheritance-in-nigeria/> accessed 19 November 2025.

³⁹ Ibid.

⁴⁰ Auwalu Yadudu, 'Colonialism and the Transformation of Islamic Law in Northern States of Nigeria' (1992) 36 *Journal of Law and Religion* 1, 12.

⁴¹ Umukoro and others (n 29) 15.

⁴² *Salami v Salami* (2016) 18 NWLR (Pt 1543) 160.

⁴³ Umukoro and others (n 29) 16.

⁴⁴ Dauda (n 7) 246

in social and economic deprivation, which often puts women and women-headed households in susceptible positions.⁴⁵ Research has shown that Nigeria has a low score for fair widowhood inheritance at 27.87 per cent, and this has remained a challenge in implementation, even with court intervention.⁴⁶ The fact that discriminatory practices continue despite judicial nullification implies that legal reform would require cultural restructuring, not just court verdicts.

4. Discrimination based on gender in the inheritance of land on a gender basis.

The most endemic issue in terms of land inheritance in Nigeria is gender discrimination. Although the constitutional equality in Section 42 of the Constitution of the Federal Republic of Nigeria 1999 outlaws any form of discrimination against sex, the customary tenure systems persist in excluding or discriminating against women in terms of inheritance.⁴⁷ Contemporary studies analysing the ban on discriminatory acts against women show that customary law practices, labour law, and some provisions of the constitution continue to perpetuate gender discrimination.⁴⁸ The discrimination has varied forms, including: the total exclusion of daughters as inheritors of family property; the giving of substandard shares instead of male siblings; the denial of women the right to alienate the inherited property; and the discontinuation of female inheritance when they become wives or widows.⁴⁹

The discriminatory customary practices have repeatedly been declared unconstitutional by the Supreme Court. The Court in *Ukeje v Ukeje* struck down customary practices in Igbo, which prohibited female children from inheriting and stated that, regardless of the circumstances of birth, female children have a right to inheritance of the estate of their deceased father.⁵⁰ The current review of sex discrimination legislation points out that, in the absence of such judicial rulings, constitutional non-discrimination clauses would be statements with no hope of realizing their espoused aims.⁵¹ The verdict followed the Court of Appeal's decision in *Mojekwu v Mojekwu*, which struck down the Oli-ekpe custom that prohibited female children from inheriting the assets of their deceased fathers and mothers.⁵²

The difference between what the courts declare and what is in practice, however, is still large. The current study on the land rights of women indicates that women continue to experience a three-fold type of discrimination due to gender, ethnicity, and economic status, even though customary practices that discriminate against women have been declared illegal in courts.⁵³ Empirical research reports that most societies still observe traditional exclusions even after a court nullifies them.⁵⁴ This gap in implementation owes part of its credit to several factors. A study found that women lack knowledge of their legal rights, are subject to social pressure that deters them from taking a step to challenge the practice, are unable to meet the costs of litigation, and are unable to enforce

⁴⁵ Olumba and others (n 10) 2.

⁴⁶ Ibid, 4.

⁴⁷ Constitution of the Federal Republic of Nigeria 1999, s 42.

⁴⁸ Miriam Omoniyiwa, 'Prohibition of Discriminatory Laws and Practices Against Women's Rights in Nigeria' (2024) 11(10) *International Journal of Research and Innovation in Applied Science* 1, 3.

⁴⁹ Dauda (n 7) 241-243.

⁵⁰ *Ukeje v Ukeje* (2014) 11 NWLR (Pt 1415) 384, 401.

⁵¹ Onyeka C Okongwu, 'Are Laws the Appropriate Solution: The Need to Adopt Non-Policy Measures in Aid of the Implementation of Sex Discrimination Laws in Nigeria' (2021) 28 *International Journal of Discrimination and the Law* 34, 42.

⁵² *Mojekwu v Mojekwu* (1997) 7 NWLR (Pt 512) 283.

⁵³ Jummai Ogbu and Irène Iruobe, 'Gender Land Right Issues under the Customary System of Ile-Ife, Nigeria' (2021) *International Journal of Innovation and Applied Studies* 1, 5.

⁵⁴ Dauda (n 7) 248.

even after securing a favorable judgment.⁵⁵ Research that has been done to analyse the rights of women in gender land rights in customary systems shows that greedy siblings and the family of a husband deprive women of their land rights, particularly those women who have no children.⁵⁶

Widows are particularly disadvantaged under many customary tenure systems. In many traditional customs, widows are deprived of independent inheritance in favour of terminable life interests, which they can regain upon remarriage or death, and the land will eventually be inherited by the family of the deceased husband.⁵⁷ A study on customary land ownership shows that women's land rights are not directly covered by law in Nigeria, even though some customary laws and religious customs have significantly influenced the dishack of women.⁵⁸ There is also property grabbing that widows go through as the relatives of the dead husband forcibly deprive widows of their property and land, taking advantage of their vulnerable positions and ineffective protection of property rights.⁵⁹ Modern literature that studies land grab and gender equality shows that due to the disadvantaged position of women under customary laws, the undesirable effects of land grab end up being felt by women the most as land grabbers run their large-scale operations in the rural areas, which predominantly are under the control of women farmers in most areas.⁶⁰

More recent scholarship suggests that discriminatory rules of inheritance, rather than manifestations of the true customary law, are colonial-era distortions in favour of male elders.⁶¹ The Violence Against Persons (Prohibition) Act 2015 partly addresses discriminatory practices by making harmful widowhood practices illegal, but enforcement is poor.⁶² Modern scene of feminism and gender discrimination analysis has revealed that the patriarchal systems offer men material benefits through inheritance rights and land ownership, thus economically empowering men and disempowering women economically, leaving them landless in terms of resources.⁶³ Findings suggest that gender inequalities in inheritance rights and legal adulthood structures predetermine structural gender inequality in families and society.⁶⁴

5. Tenure Insecurity and Inheritance Rights

Insecurity of tenure radically affects the inheritance of property rights, since it creates uncertainty about the rights the heirs inherit. Where tenures in deceased persons were uncertain or in dispute, heirs have the uncertainty and cannot fairly resort to the exercise of the rights of ownership.⁶⁵ Modern studies have shown that tenure insecurity in Nigeria impacts both the statutory and customary tenure systems, which occur as a result of failure to put rights in writing, have necessary consents and meet bureaucratic protocols to have statutory tenure, and due to a lack of formal

⁵⁵ Ibid, 249-251.

⁵⁶ Ogbu and Iruobe (n 53) 8.

⁵⁷ Olabisi Akinyele, 'Widows' Land Rights Under Yoruba Customary Law' (2015) 23 *African Journal of Legal Studies* 145, 152.

⁵⁸ Umukoro and others (n 29) 10.

⁵⁹ Dauda (n 7) 245.

⁶⁰ Anthony Diala, 'Land Grab, Property Rights and Gender Equality in Pluralistic Legal Orders: A Nigerian Perspective' (2016) 9(2) *African Journal of Legal Studies* 124, 135.

⁶¹ Martin Chanock, *Law, Custom and Social Order: The Colonial Experience in Malawi and Zambia* (Cambridge University Press 1985) 4-7.

⁶² *Violence Against Persons (Prohibition) Act 2015*, s 24.

⁶³ Onyeka C Okongwu, 'The Need for a National Legislation for the Protection of Women from Workplace Discrimination in Nigeria: Lessons from the Existing UK Legal Framework' (2025) *International Journal of Discrimination and the Law* 1, 8.

⁶⁴ Ibid.

⁶⁵ Ojo (n 2) 142.

documents, boundary conflicts, and overlapping claims to tenure under customary tenure.⁶⁶ Empirical research on land tenure and property rights shows that more severe food insecurity is associated with a smaller share of farmlands obtained by direct inheritance or purchase, and greater areas of registered farmlands are associated with greater food insecurity because of expensive registration costs.⁶⁷

The consent provisions of the Land Use Act pose a big tenure insecurity to statutory rights of occupancy heirs. Section 22 stipulates that all transfers, such as an inheritance, must have the consent of the governor.⁶⁸ Modern discussions of probate tax, governor stamp, and stamp duty show that these systems are essential to the proper administration and transfer of property. However, bureaucratic stalling, high charges, ignorance, ineffectiveness of enforcement, and lack of publicity pose significant problems.⁶⁹ This was dealt with by the Supreme Court in *Savannah Bank of Nigeria Ltd v Ajilo*, where it was differentiated that beneficial ownership has to be vested upon immediate death and legal perfection has to be by consent.⁷⁰ Yet this distinction limits only such practical safeguard as the heirs can neither mortgage nor sell off nor fully exercise possession without legal perfection by consent.⁷¹

Research examining gender land right issues demonstrates that although most women access land rights through inheritance, some women are denied land rights by greedy siblings and members of husbands' families.⁷² Non-indigenes who acquired land in communities where they lack indigenous status face particular insecurity, as their heirs may be challenged as lacking customary rights to inherit.⁷³ Contemporary analysis examining land ownership and title disputes demonstrates that frequency of land disputes can be attributed to double or multiple sales of same land parcels, use of forged or defective documents, lack of proper family or community consent in customary transactions, conflicting survey boundaries and undisclosed legal encumbrances.⁷⁴

Tenure insecurity arises from disputes over partition among many relatives who assert their inheritance rights, in cases where people who pass away without a will have more than one heir, a dispute over who is entitled to what can result in the physical division of land, leading to endless disputes.⁷⁵ Recent research on the legal frameworks of land administration has shown that land administration dates back to pre-colonial Nigeria, and multiple laws regulating land administration include the Land Use Act of 1978, several State Land Laws, and Administration of Estate Laws.⁷⁶ Unperfected informal distributions also expose an heir to posthumous attacks by other unsatisfied relatives, thus generating tenure insecurity that denies any heir the ability to claim secure ownership of the property.⁷⁷

⁶⁶ Ibid 143-145.

⁶⁷ Ahmed H A Shittu and others, 'Land Tenure and Property Rights and Household Food Security among Rice Farmers in Northern Nigeria' (2020) 8 *Heliyon* e03263, 6.

⁶⁸ *Land Use Act 1978*, s 22.

⁶⁹ Ikeotuonye (n 20) 10.

⁷⁰ *Savannah Bank of Nigeria Ltd v Ajilo* (1989) 1 NWLR (Pt. 97) 305, 318.

⁷¹ Dauda (n 7) 247.

⁷² Ogbu and Iruobe (n 53) 8.

⁷³ Dauda (n 7) 247.

⁷⁴ Okezie A Lawyer, 'Land Ownership and Title Disputes in Nigeria' (OAL Law, 7 May 2025) <https://oal.law/land-ownership-and-title-disputes-in-nigeria> accessed 19 November 2025.

⁷⁵ Ojo (n 2) 145.

⁷⁶ Chi Johnny Okongwu, 'Legal Framework on Land Administration in Nigeria' (2022) 10(1) *Afe Babalola University Law Journal* 44, 48.

⁷⁷ Ojo (n 2) 145.

Reformation of land registration can provide possible remedies to the insecurity of tenure in relation to inheritance. The systematic land registration that would lead to a robust property register would allow heirs to obtain a clear title to the inherited land, thereby curbing competing claims and boundary disputes.⁷⁸ Recent studies of land tenure systems have revealed that a combination of traditional and modern institutions, with an appreciation of customary rights, a priority for sustainable land utilisation, and community participation, is essential to efficient land management.⁷⁹ Registration, however, involves significant state expenditure in surveying, documentation, and administrative capacity, of which most states in Nigeria have little.⁸⁰

6. Religious Influences on Land Inheritance

The Nigerian land inheritance is greatly affected by the religious law, especially the Islamic law that covers deceased Muslim individuals. Islamic law has elaborate rules of inheritance that allocate estates as specified by the Quran and Prophetic traditions.⁸¹ The Malakh school is dominant in Northern Nigeria and offers an interpretation of inheritance issues in Islam.⁸² The Islamic law of inheritance is automatic for deceased Muslims, whether they had wills or died without wills.⁸³ Modern discussions on colonialism and the change of Islamic law reveal that indigenous territories in Northern Nigeria were granted occupancy rights and exclusive land rights; however, only upon government authorization and not beyond that.⁸⁴ The clash between Islamic rules of inheritance and customary tenure systems creates baffling legal circumstances in which religious identity dictates the law of succession that applies to land held under customary tenure.⁸⁵

According to the Supreme Court ruling in *Salami v Salami*, the law of succession of Muslim deceased persons is their personal law, which is the Islamic law.⁸⁶ The court held that Islamic principles of inheritance apply to a Muslim's death, regardless of the type of land tenure and conflicting customary practices.⁸⁷ Modern studies analysing culture and gender issues in inheritance rights have shown that women tend to give up their inheritance rights in Northern Nigeria due to social factors, including customary and religious norms.⁸⁸ The line between Islamic and customary law remains disputed in societies that engage in syncretic systems of integrating Islamic and native customs.⁸⁹

The law of Islamic inheritance gives women certain rights to inheritance, such as daughters inheriting half of their brothers' shares and widows inheriting half of their husbands' shares in circumstances-dependent fractions.⁹⁰ Nonetheless, there are implementation challenges arising from conflicts between traditional practices and Islamic requirements. Other communities of Islamic identity practices have pre-Islamic practices that lock out women, contrary to Islamic law, in the name of religion.⁹¹ Recent research has suggested a renewed interest in Islamic jurisprudence

⁷⁸ Ibid, 151.

⁷⁹ Nwankwo and Nwafor (n 27) 15.

⁸⁰ Ojo (n 2) 152.

⁸¹ Abdulmajeed Hassan Bello, 'Islamic Law of Inheritance: Ultimate Solution to Social Inequality against Women' (2015) 29 *Arab Law Quarterly* 261, 265.

⁸² Ibid, 266.

⁸³ Ibid, 268.

⁸⁴ Oloruntoba and others (n 12) 8.

⁸⁵ *Salami v Salami* (2016) 18 NWLR (Pt 1543) 160, 175.

⁸⁶ *Salami v Salami* (2016) 18 NWLR (Pt 1543) 160, 176.

⁸⁷ Ibid.

⁸⁸ Oriaghan (n 5).

⁸⁹ Yadudu (n 40) 15.

⁹⁰ Bello (n 81) 266-267.

⁹¹ Ibid, 270.

in addressing modern inheritance issues without abusing Islamic values⁹². This would imply that religious scholars produce interpretations that are sensitive to contemporary situations, e.g., working women, nuclear families, and economic transformation, without disrupting the continuity of the doctrines with classical Islamic legal theory.⁹³

The Christian influences on inheritance are not as formal in their application as Islamic law, because the Christian religion does not have similar rules on succession. But Christian doctrines on gender equality and the dignity of individuals affect how the believers tackle the problem of heritage to them.⁹⁴ Christian Nigerians are less accepting of the discriminatory customary practices as they are inconsistent with Christian values, citing the religious principles that promote the right of women's inheritance.⁹⁵ There are growing calls from churches to incorporate gender equity in inheritance practices, although there is a disparity in church positions across denominations. A study of cultural aspects of inheritance of family land reveals that there are numerous customary and statutory issues to be considered in the process of inheritance, such as whether the deceased was testate or intestate, whether customary law applies, and whether the deceased had married a valid marriage under the Marriage Act.⁹⁶

Religious law and statutory law interact in ways that create interpretive difficulties when the principles of religion and the provisions of the statute or constitutional guarantees come into conflict. Courts are forced to strike a balance between protecting religious freedom and the freedom to practise religion, aiming to accommodate communities that adhere to religious principles of inheritance and equality laws that address gender discrimination. This strain is evident especially in Islamic law, which provides different shares of inheritance for male and female heirs.

7. Reforming Land Tenure for Equitable Inheritance

To reform land tenure systems in line with equitable inheritance, it is important to consider multiple dimensions. The institutional development, together with the cultural change and political determination to gender equity and the protection of property rights, should be followed by technical legal reforms.⁹⁷ A recent review of the land use act imperatives shows that successive governments in Nigeria have adopted the Act, with several problems arising from its implementation, the most pressing being the abuse of governors' powers to revoke certificates of occupancy and corruption within land administration and management.⁹⁸ The current literature investigating the juridical landscape of land tenure argues that a logical and effective institutional structure is crucial, which demands defining roles, minimising overlaps, and investing in capacity.⁹⁹

Land registration reform is a key element of tenure security that promotes the right to inheritance. Registering property systematically would create an effective title to property, enabling heirs to acquire a clear title to inherited land and eliminating any title or boundary disputes that may arise when property passes through the bloodline. Registration reform, however, involves significant investment in survey infrastructure and administrative capacity, as well as in raising public

⁹² Ibid, 271.

⁹³ Ibid, 272.

⁹⁴ Dauda (n 7) 239.

⁹⁵ Ibid.

⁹⁶ Ajibade & Co (n 38).

⁹⁷ Dauda (n 7) 252.

⁹⁸ Ojo (n 2) 153.

⁹⁹ Nyeneime Victor Raphael, Uduak Uko and Victor A Udosen, 'The Land Use Act of 1978 and the Imperatives for Reforms for Effective Land Administration in Nigeria' (2022) 1(1) *BW Academic Journal* 1, 3.

awareness of the advantages of registration. Studies focusing on the role of the Land Use Act in sustainable construction practices show that registration should accommodate conflicting goals of giving security against fraud and registration and accessibility, respectively, ensuring that costs and bureaucracy do not stop legitimate registration against fraudulent registration.¹⁰⁰ Research papers on land tenure systems have highlighted that tenure reform must be linked to sustainability, in which land allocation must take into account ecological impacts, displacement risks, and community consent.

The solution to discriminatory customary practices will require multifaceted approaches, including legal reforms, judicial activism, public education, and community involvement. Legislation that criminalises discriminatory inheritance practices may help prevent heinous acts, but is not as effective since statutory prohibitions are not easily enforced via the law, a problem that is faced by numerous countries worldwide today.¹⁰¹ The courts that keep declaring discriminatory practices invalid establish precedents that affirm women's inheritance rights, yet the court rulings need to be enforced by a mechanism that compels everyone to comply with such decisions.¹⁰² Women could be empowered to demand redress for violations through public education campaigns to raise awareness of their right to inheritance and the available legal remedies. Modern research that emphasizes the need for nationwide legislation to ensure that women are not discriminated against in the workforce underscores the benefits of educational programmes aimed at eliminating discrimination by educating children about it and transforming gender norms.¹⁰³

Implementing community engagement strategies through traditional institutions would facilitate a gradual transition of traditional practices toward gender equity. Instead of seeking to eliminate traditional tenure by legislative decree, reform strategies might facilitate traditional customary development by engaging with traditional leaders, women's movements, and community organisations.¹⁰⁴ This method acknowledges that conventional practices are legitimised by community acceptance and not by the state. Studies on historical institutionalism and political settlement show that the process of distributing political power, both vertically and horizontally, ultimately leads to institutional layering rather than complete displacement.¹⁰⁵ Sustainable reform involves changing community perceptions as well as formal laws, but gradualist strategies risk maintaining discrimination until the slow cultural transformation occurs.¹⁰⁶

8. Summary of Findings

This study offers important insights into the impact of land tenure systems on inheritance rights in Nigeria. The Land Use Act 1978 has a significant effect on inheritance, as it requires the governor's consent as a condition for passing on the statutory right of occupancy, which involves substantial bureaucracy and uncertainty of tenure for heirs who do not obtain it. The distinction between statutory and customary rights of occupancy makes it difficult to determine who inherits which type of right, because various procedural rules govern the transfer of one tenure or another. Modern studies show that the Act's actual workings are far removed from its stipulations, and that

¹⁰⁰ M Mariani, 'Traversing the Juridical Terrain of Land Tenure: A Doctrinal Foundation of Land Tenure Systems' (2025) 7(3) *Journal of Law and Social Research* 43, 52.

¹⁰¹ Ojo (n 2) 155.

¹⁰² Adeola Ajayi and Oluranti Oladunmoye, 'The Role of the Land Use Act in Shaping Sustainable Construction Practices in Nigeria' (2025) 10(2) *Urban and Regional Planning* 55, 62.

¹⁰³ Ibe and Onyechi (n 102) 53.

¹⁰⁴ Dauda (n 7) 253.

¹⁰⁵ Ibid.

¹⁰⁶ Okongwu (n 63) 15.

customary tenure still exists in Nigeria. However, statutory abolition efforts have been undertaken, with less than 3 per cent of Nigeria legally registered under the Act.¹⁰⁷

Women are greatly disadvantaged by customary land tenure systems, where women were and are not allowed to succeed to the inheritance. Although the constitutional equality of cases and judicial rulings against discriminatory customs have been ensured, several communities still engage in gender exclusions. Research indicates that, in Nigeria, less than 2 per cent of women, compared with 17 per cent of men, own land individually, and that customary practices are discriminatory against women's acquisition of land, including their right to participate in environmental activities.¹⁰⁸ Their ability to continue discriminatory practices after the law has been declared invalid indicates loopholes between formal and customary law, in which social legitimacy is upheld regardless of the practices' legality.¹⁰⁹

Judicial activism has established significant precedents concerning women's inheritance rights. The *Ukeje v Ukeje* and the *Mojekwu v Mojekwu* Supreme Court rulings nullified discriminatory practices that barred women from inheriting property, and confirmed that customary laws should be aligned with the constitutional equality provisions. Nonetheless, empirical studies that analyse the patriarchal limitations reveal that Nigerians are ranked the lowest in the fair widowhood inheritance at 27.87 per cent, which shows that there is a big disparity between what is declared by the judiciary and what is practised on the ground in terms of fair widowhood inheritance practices in Nigeria.¹¹⁰ The court's rulings ought to have enforcement mechanisms and a culture that will lead to any change in the outcome of the inheritance process.¹¹¹

The tenure insecurity itself is a weakness in the right to inherit property, because there would be doubt about who is supposed to inherit the property. Statutory and customary tenure systems create insecurity in various ways. Statutory tenure insecurity manifests as consent requirements, bureaucracy, and documentation failures. The traditional lack of tenure security stems from the absence of formal records, boundaries, and a clear distinction between individual and communal property, with conflicting claims and characters. A study on land tenure and property rights shows that the severity of food insecurity decreases with the proportion of farmland under direct inheritance or purchase. In contrast, larger proportions of registered farmland have the opposite effect, increasing food insecurity due to prohibitively high registration costs.¹¹² The issue of tenure insecurity is predominant among women and non-indigenous people, who are more vulnerable to the process of establishing a right of succession.

Religious law plays a vital role in determining land inheritance, especially the Islamic law that manages the Muslim deceased persons. The Islamic rules of inheritance are binding on Muslims irrespective of the nature of land tenure or contrary customary practices. The coming together of Islamic law and custom tenure creates a complex situation in which the applicability of succession law depends on religious identity. The issue of implementation, however, arises when communities practise hybrid systems that combine Islamic and indigenous practices, or when customary practices align with Islamic teachings, although communities espouse Islamic identity. The studies on colonialism and the modernization of Islamic law reveal that native lands in Northern Nigeria

¹⁰⁷ Himonga and Munachonga (n 30) 356.

¹⁰⁸ Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, art 16.

¹⁰⁹ Okongwu (n 63) 16.

¹¹⁰ Olumba and others (n 10) 3.

¹¹¹ Ochiagha and Johnnie (n 3) 26.

¹¹² Oriaghan (n 5); Umukoro and others (n 29) 15.

were granted occupancy rights with exclusive land rights with the government's consent, which has led to constant conflicts between the religious and the statutory systems.¹¹³

To change the land tenure system so that people can inherit property fairly, all-inclusive interventions that consider the legal framework, institutional capacity, cultural attitudes, and enforcement mechanisms should be used. The tenure insecurity caused by inheritance may be minimised through land registration reform that will develop reliable records of property ownership. Registration, however, is an expensive investment, and the design balances security and fraud with accessibility. To combat discriminatory customary practices, it is necessary to use complex measures that include statutory reform, judicial activism, and community participation through education and involvement. Modern discussions examining the juridical landscape show that consistency in institutional structure is essential, as it clarifies functions, minimises redundancy, and builds capacity. Tenure reform can be associated with sustainability in ecological effects, risks of displacement, and social approval.

9. Conclusion

Land tenure systems have significant effects on inheritance rights in Nigeria, including who inherits property, the rights of heirs, and how succession occurs. The study indicates that there is an entangled interaction between statutory and customary tenure systems that presents special problems to the inheritance rights. The consent requirements of the Land Use Act hinder the transfer of statutory rights into inheritance, whereas customary tenure systems remain discriminatory against women, despite constitutional and statutory safeguards. The issue of tenure insecurity is a primary barrier to productive inheritance because unstable property ownership leads to unclear succession and allows conflicting claims to the rights of the heirs. According to modern studies, in Nigeria, the percentage of land prone to legal dispute due to rightful ownership is up to 40 per cent, largely due to insecure tenure, with less than 3 per cent of land registered. Reform of legal frameworks cannot solve the issues of inheritance because discriminatory traditions cannot be immediately replaced, even after courts have invalidated them, which shows that legal reform is unlikely to resolve the problem within the social framework, relations of power, and practice.

Religious law also plays a big role in the aspect of land inheritance by the Islamic principles of inheritance that apply in the case of Muslim dead people. The interplay between religious and customary law creates interpretive dilemmas in which religious values collide with customary practices or laws. Courts have to strike a balance between the freedom of religion when the communities abide by the principles of religious inheritance and the provisions of equality that do not tolerate gender discrimination.

The changes in land tenure to enable equitable inheritance are global issues that need multidimensional solutions. The institutional development should be accompanied by legal reform that provides the administration with the capacity to enforce the reforms; cultural transformation that shifts social attitudes towards women's property rights; and political commitment to implement the reforms.

10. Recommendations

The Land Use Act 1978 should be subject to wholesale review by the National Assembly to consider the consent requirements that hinder the inheritance, do away with the consent requirements to heritage that personalities to inheritance as they are practised in recognition of the fact that heirs to the property are obtained under the operation of law, remove or reduce the consent

¹¹³ Dauda (n 7) 249-251.

requirements to the succession of the customary right and address the ambiguous provisions on whether the customary right applies to the customary rights of occupancy.

States need to establish systematic land registration programmes that demonstrate sound property records, enabling a clear title to inherited land. The registration programmes must prioritise accessibility for ordinary citizens through simplified registration procedures, low registration fees, and increased awareness of the benefits of registration for ordinary citizens, and security against fraudulent registration through verification procedures without creating bureaucratic hurdles.

Civil society organisations need to carry out extensive education campaigns to the masses, sensitising them to their rights to inheritance and the legal recourse they can take in case of such acts against women, as well as to change the cultural orientation that perpetuates discriminatory practices. Culturally appropriate means of teaching, such as community meetings, religious groups, and media campaigns, should be used to educate various audiences on practical documentation, court procedures, and enforcement strategies. The Violence Against Persons (Prohibition) Act 2015 is an example of a statutory intervention that can help women gain protection against harmful customary practices, which must be reinforced by enabling proper funding and political support.