



## ASSESSING THE INTERSECTION OF CUSTOMARY LAW AND WOMEN LAND RIGHTS: PATTERNS OF EXCLUSION AND INEQUALITY IN NIGERIA

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### ABSTRACT

The study assessed the influence of customary law on women land rights in Nigeria with focus on patterns of exclusion, inequity and socio-economic consequences. It examined historical and contemporary land tenure systems, comparing pre-colonial, colonial and post-colonial frameworks and assessed how statutory reforms, including the Land Use Act of 1978, intersected with customary practices to shape women access to land. The research methodology was doctrinal, reviewing legal instruments, policies and scholarly literature on land tenure, inheritance and gendered land access. Findings indicated that despite statutory provisions intended to promote equitable access, customary norms continued to restrict women ability to own, inherit or control land. Women often relied on male relatives for land access and insecure tenure limited their participation in agriculture, property development and economic programs, contributing to poverty and social marginalization. Traditional inheritance practices, patriarchal descent systems and the dominance of male-centered decision-making exacerbated these challenges. The study also identified discrepancies between legal reforms and their practical implementation, with bureaucratic inefficiencies, lack of awareness and cultural resistance undermining the effectiveness of statutory frameworks. From the findings of the study, the researchers recommended that relevant agencies should strengthen legal enforcement of women land rights, raise public awareness of statutory entitlements, integrate gender-sensitive provisions in customary land administration and establish oversight mechanisms to monitor compliance with existing laws. Furthermore, the research stressed the need for harmonizing statutory law and customary practices to enhance tenure security, promote equitable resource access and support women socio-economic empowerment.

**KEYWORDS:** Customary law, Women land rights, Land tenure, Gender inequality, Land Use Act

### 1. INTRODUCTION

Land is one of the most essential resources for human survival, economic activity and social organization. It provides space for housing, agriculture, industry and cultural practices, forming the basis of livelihoods, wealth and community cohesion.<sup>1</sup> In Nigeria, land carries deep social and cultural significance, linking individuals, families and communities to both economic and traditional structures. Access to land is regulated by rules and practices that determine how it

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<sup>1</sup> C.Y. Okolo & J.U. Ogbuefi, "Traditional Land Tenure System in Nnewi Anambra State, Nigeria" *International Journal of Science and Management Studies (IJSMS)* 4(6) (2021) 1–7.



is used, transferred and controlled, shaping economic opportunity and social status.<sup>2</sup> Land tenure defines the relationships and rules that govern access to land, whether under customary arrangements, statutory law, or a combination of both.<sup>3</sup> In pre-colonial Nigeria, customary tenure dominated, with land held collectively by families, clans, or communities. Individual members were granted rights to cultivate or occupy land, but ultimate authority rested with family elders or community heads.<sup>4</sup> These systems generally prioritized men, limiting women access to land and their ability to inherit or independently manage property. In Igbo communities, for instance, women could use land for subsistence farming but were rarely allowed to inherit it. Male children, often the eldest, automatically assumed rights to family or communal land upon coming of age.

Colonial administration introduced statutory frameworks alongside customary practices, resulting in multiple overlapping tenure systems.<sup>5</sup> English law, state land laws and land tenure laws coexisted with indigenous practices, creating legal pluralism that often-marginalized women. Conflicts between statutory provisions and customary norms contributed to uncertainty in land ownership and frequent disputes over inheritance.<sup>6</sup> After independence, Nigeria sought to harmonize land administration through the Land Use Act (LUA) of 1978. The Act aimed to address fragmentation, disputes and inequities in land access.<sup>7</sup> It distinguishes statutory rights of occupancy, managed by state governments, from customary rights of occupancy, overseen by local authorities. Land allocation committees at both levels provide guidance and resolve disputes.<sup>8</sup> The LUA intended to democratize land access, secure tenure and expand opportunities for economic and social development. Despite these reforms, women access to land remains constrained by socio-cultural norms and patriarchal structures. Men generally control allocation decisions and women often rely on male relatives to access land.

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<sup>2</sup> N.C. Maduekwe, “The Land Tenure System under the Customary Law” (paper presented at the Nigerian Institute of Advanced Legal Studies Training Programme for Judges of Customary and Area Courts, Shehu Yar’adua Centre Abuja, 2014). <https://www.landlord.com.ng/land-tenure-system-in-nigeria>.

<sup>3</sup>Ibid.

<sup>4</sup> S. Famoriyo: *Land Tenure, Land Use and Land Acquisition in Nigeria*, Institute for Agricultural Research Ahmadu Bello University Zaria, 1973. [https://horizon.documentation.ird.fr/exl-doc/pleins\\_textes/divers07/03068.pdf](https://horizon.documentation.ird.fr/exl-doc/pleins_textes/divers07/03068.pdf)

<sup>5</sup>P.E. Oshio, “Indigenous land tenure and nationalisation of land in Nigeria” *Journal of Land Use&Environmental Law* 5(2) (1990) 685–701.

<sup>6</sup> I.P. Williamson, “Land administration ‘best practice’ providing the infrastructure for land policy implementation” *Land Use Policy* 18(4) (2001) 297–307.

<sup>7</sup> J.C. Anyanwu, A. Oyeyusi, H. Oaikhenan & F.A. Dimowo: *The Structure of the Nigerian Economy*, Joance Educational Publishing Ltd, 1997. <https://www.scirp.org/reference/referencespapers?referenceid=2517783>

<sup>8</sup>*Land Use Act* 2004 (Cap L5, LFN).



This dependency exposes women to risks of dispossession in cases of divorce, widowhood, or disputes within families.

Limited land access affects women ability to invest in agriculture or participate fully in economic programs, reinforcing cycles of poverty.<sup>9</sup> Internationally, countries have attempted to promote gender-equitable land reforms. Programs in Ethiopia, Ghana, Cameroon, Zimbabwe and Tanzania aimed to enhance women access to land and decision-making. In practice, these initiatives frequently encountered resistance from customary norms, leaving women with limited tenure security and restricted participation in cash crop cultivation and other livelihood activities.<sup>10</sup> In Amhara, Ethiopia, programs to improve women land rights did not achieve tangible outcomes at the community level.<sup>11</sup> Similar challenges have been observed across Cameroon and Ghana, where male inheritance norms continued to dominate.

In Nigeria, land remains central to rural livelihoods and national development. Agriculture provides employment and food security and access to land is critical for sustaining these activities.<sup>12</sup> Before the LUA, customary systems prevailed, with communal ownership, male succession and limited women participation. The LUA centralized control under state governors and local authorities, intending to reduce disputes, provide security of tenure and improve access.<sup>13</sup> However, the implementation of the LUA has been uneven, particularly in rural communities where customary law continues to influence land practices. Male dominance in allocation decisions persists, leaving women dependent on male relatives for access.<sup>14</sup> Vulnerability among widows, divorced women and female heirs remains widespread. Some

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<sup>9</sup> A. Schurmann, J. Kleemann, C. Furst & M. Teucher, “Assessing the relationship between land tenure issues and land cover changes around the Arabuko Sokoke Forest in Kenya” *Land Use Policy* 95 (2020) 1–13.

<sup>10</sup> T. Berhane & G. Miruts, “Rural women land use right in Tigray regional state: The case of Kafta Humra Woreda” *Journal of Culture, Society and Development* 10 (2015) 47–61. T.D. Thobejane & C.T. Murisa, “Challenges to women entitlement to land: A case of the Nyadgori Farm in Zimbabwe” *OIDA International Journal of Sustainable Development* 8(8) (2015) 43–48.

<sup>11</sup> A. Askale, “Land registration and women land rights in Amhara Region, Ethiopia” International Institute for Environment and Development <https://gender.cgiar.org/publications/research-report-3-land-registration-amhara-region-ethiopia> visited 8 December 2025.

<sup>12</sup> B.T. Aluko & A. Amidu, “Women and land rights reforms in Nigeria” (paper presented at the 5th FIG Regional Conference: Promoting Land Administration and Good Governance, Accra, Ghana, 2006) <[www.universitypublications.net/proceedings/0801/html/DE4C212.xm](http://www.universitypublications.net/proceedings/0801/html/DE4C212.xm)

<sup>13</sup> L. Shobowale, “Rethinking the land use act for improved outcome” <https://www.thecable.ng/rethinking-the-Land-Use-Act-for-improved-outcome> visited 8 December 2025.

<sup>14</sup> I. Dery, “Access to and control over land as gendered: Contextualising women access and ownership rights of land in rural Ghana” *Africanus Journal of Development Studies* 45(2) (2015) 28–48.



exceptions exist, such as in Ile-Ife, where women can inherit land from their husbands, reflecting localized variations in customary practices.<sup>15</sup>

The coexistence of customary and statutory frameworks creates a complex legal environment. Traditional norms often conflict with statutory rules, limiting women agency and tenure security. Courts have occasionally intervened to protect women rights, as in *Ukeje v. Ukeje*,<sup>16</sup> but enforcement at the community level is inconsistent. Land administration involves determining ownership, recording rights and regulating use, including adjudication, surveying, documentation and dissemination of information for land markets.<sup>17</sup> Nigeria pluralistic land systems reflect its ethnic, linguistic and regional diversity. Before the LUA, four tenure arrangements existed: customary law, received English law, state land laws and land tenure laws. The first and last systems conformed to regional variations, while the others applied nationwide.<sup>18</sup> Customary law, as defined by the Supreme Court in *Nwaigwe v. Okere*,<sup>19</sup> emerges from long-established community practices and gains binding force through acceptance and enforcement. Rights may accrue to individuals, families, or communities, but tenure determines use, duration and conditions rather than absolute ownership.

Urbanization has intensified land challenges, particularly in informal settlements. Rapid urban growth in Africa and Asia has produced settlements characterized by insecure tenure, limited services and substandard housing.<sup>20</sup> These settlements arise from weak land administration, complex acquisition procedures and limited affordability, excluding many low- and middle-income households from formal land markets.<sup>21</sup> Housing quality varies, but tenure insecurity remains a central problem affecting investment, social stability and integration into urban planning.<sup>22</sup> Policy tools such as land titling and tenure regularization aim to formalize

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<sup>15</sup> C.P. Ogbu & P. Iruobe, “Comparison of formal and informal land administration systems in Lagos State: The case of Epe LGA” *Journal of African Real Estate Research* 3(2) (2018) 18–43

<sup>16</sup> *Ukeje v Ukeje* (2014) LPELR–22724 (SC).

<sup>17</sup> I.P. Williamson, “Land administration ‘best practice’ providing the infrastructure for land policy implementation” *Land Use Policy* 18(4) (2000) 297–307

<sup>18</sup> Oshio (n5).

<sup>19</sup> *Nwaigwe v Okere* (2008) 13 NWLR (Pt 1104) 445.

<sup>20</sup> K. Dovey, M. van Oostrum, I. Chatterjee & T. Shafique, “Towards a morphogenesis of informal settlements” *Habitat International* 104 (2020) 102240

<sup>21</sup> D. Antonio, S. Njogu, H. Nyamweru & J. Gitau, “Transforming land administration practices through the application of fit-for-purpose technologies: Country case studies in Africa” *Multidisciplinary Digital Publishing Institute* 10(5) (2021) 538–538. S. Issar, “Conceptualizing the connections of formal and informal housing markets in low-and middle-income countries” *Housing Studies* 37(5) (2022) 789–808.

<sup>22</sup> K. Marnane & K. Greenop, “Housing adequacy in an informal built environment: Case studies from Ahmedabad” *Journal of Housing and the Built Environment* 38(3) (2023) 2059–2082.



settlements and strengthen tenure security.<sup>23</sup> In practice, bureaucratic inefficiencies, corruption and lack of adaptation to local contexts limit their effectiveness.<sup>24</sup> Experiences in Zambia and Rwanda show that formalization can reduce disputes but may exclude secondary claimants or fail to address local socio-cultural dynamics.<sup>25</sup> In Nigeria, the LUA is the primary instrument for integrating customary and statutory tenure systems, but practical challenges remain in enforcement, accessibility and equitable distribution.<sup>26</sup>

The historical trajectory of land tenure in Nigeria provides insight into current challenges, perceptions and disputes. Pre-colonial communal and family-based systems assigned decision-making authority to elders while limiting individual ownership, particularly for women. Family units formed the core of land management, with male members receiving allocations sufficient for subsistence, while women use was conditional. Land could not be transferred or alienated without family consent.<sup>27</sup> These customs shaped the formulation of modern land laws, including the LUA and continue to influence debates about equitable access. The LUA sought to address rising demand for land, disputes over inheritance, inequitable access and the need for security of tenure. It aimed to facilitate both agricultural and non-agricultural development, minimize litigation and create a standardized framework for land administration.<sup>28</sup> The Act introduced uniformity while preserving recognition of local customs through customary rights managed by local authorities. Critics argue that the Act created bureaucratic obstacles, concentrated administrative power and complicated land acquisition, limiting access for marginalized groups.<sup>29</sup> This study seek to assess how customary law influences women land rights and contributes to patterns of exclusion and inequality in Nigeria.

## 2. EVOLUTION OF LAND TENURE SYSTEM IN NIGERIA

In the period preceding colonial contact, land in Nigeria was governed by customary norms that varied among ethnic communities, with ownership vested in villages, lineages, families

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<sup>23</sup> F.F. Byamugisha: *Securing Africa Land for Shared Prosperity: A Program to Scale Up Reforms and Investments*, World Bank, 2013.

<sup>24</sup> E.J. Odoji & K. Riekkinen, “Housing policy: An analysis of public housing policy strategies for low-income earners in Nigeria” *Sustainability* 14(4) (2022) 2258.

<sup>25</sup> A. Choplin & E. Dessie, “Titling the desert: Land formalization and tenure (in) security in Nouakchott (Mauritania)” *Habitat International* 64 (2017) 49–58.

<sup>26</sup> A. Ukaejiofo, “Perspectives in land administration reforms in Nigeria” *Journal of the Environment* (2008) 43–50.

<sup>27</sup> Famoriyo (n4).

<sup>28</sup> Anyanwu (n7).

<sup>29</sup> Shobowale (n13)



and larger community groups rather than individuals, ensuring collective stewardship of resources for current and future members.<sup>30</sup> In southern Nigeria, land tenure manifested as communal lands, stool or chieftaincy lands, family lands and individual property.<sup>31</sup> Communal lands were under the supervision of traditional rulers who allocated use rights to members while retaining control for the group, stool lands typically included the Oba palace and its surrounding territory, family lands were managed by extended family groups and individual property arose primarily through subdivision of family lands. Restrictions against alienation of land were in place to preserve access for future generations.<sup>32</sup> In the northern region, the Hausa-Fulani operated under the gani system, whereby emirs granted usufructuary rights while maintaining ultimate ownership for the community and the Niger Delta communities organized land through kinship networks that controlled inheritance, agricultural use and settlement patterns.<sup>33</sup> These pre-colonial arrangements emphasized intergenerational stewardship, communal responsibility and social cohesion rather than formal legal ownership by individuals.

British colonial authorities modified existing land arrangements to support administrative and economic objectives, initially through commercial engagement and later through formal political control.<sup>34</sup> The Treaty of Cession (1861) transferred title of Lagos lands to the Crown<sup>35</sup> and the Land Proclamation Ordinance (1900) required all titles to be derived from the High Commissioner, undermining communal ownership. In Northern Nigeria, the Land and Native Rights Act (1916)<sup>36</sup> placed all native lands under the governor, who could grant occupancy rights, fix rents, revoke grants and restrict alienation without consent. The Niger Lands Transfer Act (1916) shifted lands previously held by the Royal Niger Company to the Crown, leading to disputes with local communities. The Public Lands Acquisition Act (1917) allowed compulsory acquisition for public purposes, often without compensation, while the Native Lands Acquisition Act (1917) limited land acquisition by non-natives to gubernatorial

<sup>30</sup> E.O. Omuojine, “The Land Use Act and the English Doctrine of Estate” *Journal of the Nigerian Institution of Estate Surveyors and Valuers* 22(3) (1999) 54–56.

<sup>31</sup> O.A. Dosumu, “Land Tenure System in Nigeria and its Effects on Land Administration” *The Map Maker* 4(1) (1977) 23–25. D.A. Aniyom, “An Appraisal of the Land Use Decree and its Effects in its First Five Years (29th March 1978 to 29th March 1983)” *The Map Maker* 9(1) (1983) 17–26.

<sup>32</sup> M.C. Bardi, “Geographic Information System as a Tool for Successful Implementation of the Land Use Decree” *The Quantity Surveyor* 29(1) (1998) 17–22.

<sup>33</sup> E.J. Alagoa: *A History of the Niger Delta: An Historical Interpretation of Ijo Oral Tradition*, University of Port Harcourt Press, 1972.

<sup>34</sup> J.C. Anene: *Essays in African History*, Onibonoje Publishers, 1966.

<sup>35</sup> T.O. Elias: *Nigerian Land Law*, Sweet and Maxwell, 1971. <https://catalogue.nla.gov.au/catalog/484162>

<sup>36</sup> *Land Use Act 1978*, Laws of the Federation of Nigeria.



approval. Additional legislation, including the State Lands Act (1918) and the Town and Country Planning Act (1947), governed crown lands and urban planning, respectively. These measures disrupted customary tenure and promoted individual ownership, particularly in the South, where alienation of land became possible through rights of occupancy, whereas Northern customary systems persisted with oversight from the governor.<sup>37</sup> The Land Tenure Law of 1962 further concentrated Northern land administration in the federal minister, regulating access for non-natives and codifying native occupancy rights while maintaining government oversight.

After independence, the multiplicity of regional laws and difficulties in acquiring land for public purposes prompted the military government of Olusegun Obasanjo to introduce the Land Use Act (LUA) on 29 March 1978,<sup>38</sup> repealing previous state and regional legislation<sup>39</sup> and creating a single system for land administration nationwide. Section 1 vested all land within a state in the governor, who holds it in trust for the people, assigning authority over urban land management to the governor and rural lands to local governments.<sup>40</sup> Land Use and Allocation Committees at both state and local levels advise on allocation, resettlement and compensation, while the governor retains power to grant statutory rights of occupancy, approve easements, set rents and supervise transfers. Local governments can grant customary rights of occupancy within limits defined by the Act (sections 2, 5, 6). Certificates of occupancy serve as evidence of rights, specifying payment obligations and conditions for improvements (sections 9, 10, 16) and sections 21 and 22 require gubernatorial consent for assignment, mortgage, transfer, or sublease of both statutory and customary rights.

The LUA aimed to reduce disputes, simplify land management, facilitate planning and enable citizens to secure housing, but the concentration of authority with state governors has restricted access for low-income individuals while providing discretionary control over allocation and management. Judicial interpretation, including *Nkwocha v. Governor of Anambra State*,<sup>41</sup> confirmed that freehold interests existing before the Act were converted to statutory rights of

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<sup>37</sup>Omuojine (n30).

<sup>38</sup>The Land Use Act of 1978 Appraisal, Problems and Prospects” Afribary, <https://afribary.com/works/the-land-use-act-of-1978-appraisal-problems-and-prospects> visited 8 December 2025.

<sup>39</sup>S. Abatan, L. Musibau, O. Bankole & R. Babarinde, “History of Nigeria Land Use Act (An Overview)” *International Journal of Engineering Applied Sciences and Technology* 6(5) (2021) 207–219 <https://www.ijeast.com> visited 8 December 2025.

<sup>40</sup>Land (n36).

<sup>41</sup>*Nkwocha v Governor of Anambra State* [1984] 1 SCNLR 634.



occupancy, affecting inheritance and land transactions. Section 44 of the 1999 Constitution supports property rights while validating compulsory acquisition, as upheld in *Attorney-General of Lagos State v. Attorney-General of the Federation*.<sup>42</sup>

This progression from pre-colonial communal stewardship to colonial statutory control and finally post-colonial centralization under the LUA demonstrates changes in the understanding of land ownership, usage and governance. Pre-colonial tenure systems were rooted in social obligations, spiritual connections and collective responsibility, colonial laws introduced legal structures favoring individual ownership and administrative control and the LUA introduced statutory mechanisms, certificates of occupancy, controlled allocation and powers of revocation. Urban planning, agricultural development, housing and land distribution have all been shaped by these successive legal regimes. The historical trajectory highlights persistent tensions between customary systems and statutory regulation, including ongoing disputes over allocation, compensation, occupancy rights and government interventions.

### **3. CUSTOMARY LAND PRACTICES IN NIGERIA: CONCEPTS AND STRUCTURES**

Customary land practices in Nigeria reflect indigenous systems of landholding and governance that existed before colonial intervention and continue to influence land use in rural communities, with principles and rules that evolved over generations to regulate acquisition, possession and transfer of land. The term “customary” denotes traditional actions or patterns of behavior widely adopted within a group, which acquire legitimacy through persistent and consistent practice, while “land” encompasses the surface of the earth, all attached fixtures and incorporeal rights such as easements and profits arising from the use of land and “system” refers to an organized set of principles and procedures guiding the management and distribution of resources. In the Nigerian context, the customary land tenure system consists of the norms, customs and rules that govern land transactions among families, lineages and communities prior to the enactment of the Land Use Act of 1978, which sought to centralize land administration but did not abolish the operation of customary practices in many areas.

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<sup>42</sup>*Attorney-General of Lagos State v Attorney-General of the Federation* [2003] 12 NWLR (Pt 833) 1.



Ownership under customary law vests in families, lineages, or communities, with the head of the family or chief holding the land in trust for the collective benefit of members, while individual members are entitled to use and enjoy the portions allocated to them, but cannot alienate these portions without the consent of the family or community, a principle recognized in cases such as *Amodu Tijani v. Secretary of Southern Nigeria* (1921)<sup>43</sup> and *Oyewunmi & Anor v. Ogunesan* (1990),<sup>44</sup> which emphasized that the chief authority is to manage land for communal benefit rather than to assert personal ownership. Allocation of land conveys possession rather than ownership and the chief cannot grant overlapping or conflicting allocations without consulting the original allottee, as illustrated in *Oragbade v. Onitiju* (1962),<sup>45</sup> reinforcing that rights to land are collective, with the chief functioning in a role comparable to that of a trustee, safeguarding access and continuity of tenure for all members.

The rules governing inheritance, succession and transfer of land within families and lineages ensure that land remains within the control of the community while allowing for orderly passage of rights across generations, usually from the founder of a family to surviving children, with the family head overseeing allocation and distribution to prevent disputes or encroachments; members may cultivate, occupy, or build on their allocated portions, but cannot transfer, sell, or bequeath land independently, a restriction affirmed in *Alao v. Ajani* (1989)<sup>46</sup> and *Ekpendu v. Erika* (1959),<sup>47</sup> while statutory law recognizes customary arrangements under sections 34 to 36 of the Land Use Act. Customary law does not provide for title by prescription, meaning that even prolonged adverse possession cannot override the rights of the original owner, as confirmed in *Shaba & Ors v. Kpotun & Ors* (2021),<sup>48</sup> preserving the communal and family character of land tenure.

Informal dispute resolution mechanisms are central to customary governance, relying on councils of elders, family heads, or community leaders to settle conflicts concerning allocation, succession, inheritance, or unauthorized use, often guided by historical occupation, oral traditions and precedent within the community. Courts have sometimes upheld outcomes of these mechanisms when disputes reach formal litigation, particularly where occupation has

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<sup>43</sup>*Amodu Tijani v Secretary of Southern Nigeria* [1921] AC 399.

<sup>44</sup>*Oyewunmi & Anor v Ogunesan* (1990) LPELR-2880(SC).

<sup>45</sup>*Oragbade v Onitiju* [1962] 1 ALL NLR 32.

<sup>46</sup>*Alao v Ajani* [1989] 4 NWLR (Pt 113) 1.

<sup>47</sup>*Ekpendu v Erika* [1959] 4 FSC 79.

<sup>48</sup>*Shaba & Ors v Kpotun & Ors* LPELR-54766 (CA) (2021).



been continuous and uncontested over time, as demonstrated in *Akpan Awo v. Cookey-Gam* (1913),<sup>49</sup> where the court recognized possession exercised under communal acquiescence for twenty-one years and *Aro v. Jaja* (1961),<sup>50</sup> which applied customary estoppel principles to prevent reclamation of land after long-term recognized occupation.

Customary land tenure carries social, political and religious significance, as land is viewed as a sacred endowment for the sustenance of present and future generations and allocation decisions reflect collective priorities rather than individual accumulation, thereby ensuring that access is regulated in a manner consistent with communal values. Chiefs and elders act as custodians, administering land allocation, monitoring use and mediating disputes to uphold equity and maintain social cohesion, while individual members exercise usufructuary rights confined to allocated plots. The system supports intergenerational continuity and provides mechanisms for recognizing entitlement without conferring absolute ownership on any single individual, as evidenced by historical and judicial interpretations, including those of Viscount Haldane in *Amodu Tijani v. Secretary of Southern Nigeria* (1921),<sup>51</sup> who emphasized that the notion of individual ownership is foreign to native ideas, with land belonging to the collective, including the living, the dead and those yet unborn.

Acquisition and registration of land under customary tenure involve approaching the family head or chief for allocation, which then provides possession and use rights according to established norms; registration through local government or statutory land offices may follow, particularly when formal legal recognition is required beyond the community, without altering the customary rights and obligations attached to the land. Judicial decisions, in *Owoo v. Owoo* (1945)<sup>52</sup> and *Kadiri Balogun v. Tijani Balogun & Ors.*, [1943],<sup>53</sup> confirm that customary practices govern allocation, use and dispute resolution even when formal registration exists, ensuring that inheritance, succession and usufructuary rights remain grounded in community norms while interfacing with statutory requirements.

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<sup>49</sup>*Akpan Awo v Cookey-Gam* [1913] 2 NLR 100.

<sup>50</sup>*Aro v Jaja* [1961] LLR 200.

<sup>51</sup>*Amodu Tijani v Secretary of Southern Nigeria* [1921] AC 399.

<sup>52</sup>*Owoo v Owoo* [1945] 11 WACA 81.

<sup>53</sup>*Kadiri Balogun v Tijani Balogun & Ors* [1943] 9 WACA 73, 82.



In northern Nigeria, historical disruptions influenced customary tenure, including the Fulani jihad and British colonial policies, which led to statutory regulations under the Lands and Native Rights Ordinances of 1910 and 1916,<sup>54</sup> later codified in the Land Tenure Law of 1962. These laws allowed officials to grant occupancy rights to natives while reserving oversight and control for the minister, particularly regarding transfers to non-natives, reflecting a hybrid of customary and statutory frameworks. In southern Nigeria, customary systems retained communal ownership and lineage-based allocation, reinforced by cases such as *Okiji v. Adejobi* (1960)<sup>55</sup> and *Okoiko & Anor. v. Esedalue & Anor.* (1974)<sup>56</sup> and documented in testimony to the West African Lands Commission in 1908,<sup>57</sup> which highlighted the belief that land belongs to the living, the dead and future generations.

Possession under customary law differs from occupation and ownership, as occupation entails physical control of land, which may occur with permission from the chief or family, whereas possession requires both control and the intention to exercise rights in one own name, providing evidence against third-party claims. Courts have distinguished these concepts, emphasizing that possession does not confer ownership absent the consent of the communal authority,<sup>58</sup> while customary tenancy and pledges recognize a form of limited interest in land, preserving the rights of the community and allowing for redemption of pledged land.<sup>59</sup>

The customary system in Nigeria continues to operate alongside statutory frameworks, with family, lineage and community structures defining land rights, regulating inheritance and succession and providing mechanisms for dispute resolution that align with historical practices. The system safeguards communal interests while granting individuals the ability to use allocated land, mediates conflicts through elders and chiefs and maintains intergenerational equity. While statutory reforms provide formal registration and oversight, customary rules remain the principal framework in rural areas, shaping access, allocation and usage of land in ways that reflect long-standing socio-cultural values and historical precedent, preserving both collective heritage and individual usufructuary rights.

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<sup>54</sup> Land (n36).

<sup>55</sup> *Okiji v Adejobi* [1960] FSCLR 44.

<sup>56</sup> *Okoiko & Anor v Esedalue & Anor* [1974] 3 S.C.R. 15.

<sup>57</sup> West African Lands Commission (1908) Proceedings 183, para. 1048.

<sup>58</sup> *Abioye v Yakubu* [1991] 5 NWLR (Pt 190) 180.

<sup>59</sup> *Aghheghen v Waghoreghor* [1974] 1 SC 171.



#### 4. INTERSECTIONS OF STATUTORY LAW AND WOMEN LAND ENTITLEMENT

Land access for women in Nigeria is shaped by a combination of family authority, local traditions and cultural expectations that place male relatives at the center of decision-making and this arrangement continues to determine who may use, inherit and manage land within many communities. Women often gain access through fathers, husbands, brothers, or sons and the decisions of these custodians influence the extent of their involvement in land transactions or property management, even when formal statutes recognise women as property-holding individuals. These restrictions become more visible when issues of inheritance arise, as daughters and widows frequently encounter barriers that arise from community rules that favour male lineage. Courts have, however, addressed several of these practices by declaring that customs which exclude female heirs do not align with constitutional guarantees of equal treatment, as affirmed in judicial statements<sup>60</sup> and by later court positions.<sup>61</sup>

Women ability to assert statutory rights depends heavily on their awareness of available legal avenues and their capacity to engage with formal institutions. The legal system may uphold a woman entitlement to family land or property assigned under marriage, wills, or estate processes, yet the social environment within which these rights should operate can restrict the exercise of such entitlements. The distance between legal recognition and lived reality grows wider where community leaders, family heads, or age-grade institutions insist on long-standing customs that grant priority to the male line. Writers observe that, although judicial decisions addressing discriminatory practices are increasing, the outcomes women experience remain tied to their social position and the influence of male relatives who interpret or enforce customary rules.<sup>62</sup>

Custom governs landholding identities in many parts of the country and this system interacts with statutes, religious rules and judicial oversight in ways that present women with parallel possibilities and constraints. While constitutions and property laws grant women recognition

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<sup>60</sup> E.A. Taiwo, “Repugnancy clause and its impact on customary law: Comparing the South African and Nigerian positions: Some lessons for Nigeria” *Journal for Juridical Science* 34(1) (2009) 89–115 <https://caid.ca/RepClaCusLaw2009.pdf> visited 8 December 2025

<sup>61</sup> A.O. Akpovi & A. Akpovi, “The right of a girl child to inheritance in Igbo land: A review of the Supreme Court decision in the case of *Ukeje v Ukeje*” *DELSU Law Review* 9(1) (2023) 378–403.

<sup>62</sup> B.E. Umukoro, “Looking beyond the Constitution: Legislative efforts toward environmental rights in Nigeria: A review of some salient legislations” *Brawijaya Law Journal: Journal of Legal Studies* 9(2) (2022) 141–164 <https://doi.org/10.21776/ub.blj.2022.009.02.03>



as individuals capable of owning and disposing of real property, access is still channeled through male custodians in many households, especially in rural settings where patrilineal traditions retain strong authority. These practices appear when widows are required to secure approval from their husband family before they can continue to live on matrimonial property or engage in farming activities. Daughters face comparable constraints in communities where inheritance is linked to bloodlines traced only through male children and where marriage is understood as a transfer of a woman identity to her husband household, thereby limiting her claim to her natal family land. Research notes that although women may rely on courts to challenge discriminatory practices, many prefer to avoid litigation due to cultural pressures or fear of family sanctions.<sup>63</sup>

Statutory law has always recognised women capacity to acquire and hold property. The Land Use Act of 1978 makes no distinction based on sex, granting each citizen the right to apply for and possess land subject to state control, while the Married Women's Property Act of 1882 affirms that a woman in a statutory marriage may own and dispose of property independently. The Matrimonial Causes Act also empowers courts to distribute property in a manner considered fair when marriages end and provides an early example in which the court acknowledged equal share in jointly operated ventures.<sup>64</sup> Even with these statutes, women married under customary law find themselves outside the protective reach of provisions created for statutory marriages and the Court of Appeal in *Nwangwa v. Ubani* (1997)<sup>65</sup> affirmed that property rights granted under statutory regimes do not automatically extend to customary marriages.

Disputes arising from marital property have exposed important gaps. There are instances where courts distribute assets unequally because wives are unable to produce financial records demonstrating contribution to property acquisition, as seen in *Akinboni v. Akinboni* (2002).<sup>66</sup> Several commentators regard such outcomes as inconsistent with fairness in domestic relationships where contributions may be expressed through non-financial labour. A contrasting approach appeared in the English case *Lambert v. Lambert* (2002),<sup>67</sup> where Justice

<sup>63</sup>C.S. Nwakoby & I.N. Mariah, "Culture and gender issues on inheritance rights in Nigeria" *International Journal of Law* 8(4) (2022) 225–231.

<sup>64</sup>*Patience Oghoyone v Daniel Oghoyone* [1976] FRN 78.

<sup>65</sup>*Nwangwa v Ubani* [1997] NWLR (Pt 526) 559.

<sup>66</sup>*Akinboni v Akinboni* [2002] 5 NWLR (Pt 761) 564.

<sup>67</sup> *Lambert v Lambert* [2002] International Divorce Online <http://www.internationaldivorce.org> visited 8 December 2025



Thorpe described marriage as a relationship in which homemaking and breadwinning carry equal weight. Nigerian courts have not uniformly adopted this reasoning and earlier decisions such as *Shodipo v. Shodipo* (1990)<sup>68</sup> reveal how women may lose access to marital assets even after years of effort within the household.

Customary law often sets limits on women landholding in ways not contemplated by statutory regimes. In a number of communities in Nigeria, real property is regarded as a family resource meant to circulate through male descendants and women may only enjoy temporary access. This practice conflicts with provisions of the Maputo Protocol (2003), which calls for equal inheritance rights, yet customary institutions remain influential in daily life.<sup>69</sup> In regions such as Benin and Esan, the principle of primogeniture grants exclusive inheritance rights to the eldest surviving son once he has performed burial rites, as shown in *Idehen v. Idehen* (1991)<sup>70</sup> and *Lawal Osula v. Lawal Osula* (1995).<sup>71</sup> In many Igbo communities, the courts have long recognised that inheritance follows the male line, with *Ugboma v. Ibeneme* (1967)<sup>72</sup> stating that local custom reserves succession for men. Instances from Yoruba societies differ, as daughters may inherit their father property under certain conditions, as demonstrated in *Salami v. Salami* (1924)<sup>73</sup> and *Oloko v. Giwa* (1939),<sup>74</sup> although widows remain excluded since property is believed to flow through descendants linked by blood, in *Sogunro-Davies v. Sogunro-Davies* (1929)<sup>75</sup> illustrating this position.

Widows in Igbo communities have faced particularly strong limitations. Although a widow may remain in her late husband's home, as held in *Nzekwu v. Nzekwu* (1989),<sup>76</sup> this right is conditional and may be withdrawn if she does not conform to family expectations. The situation worsens where the woman has no male child in *Mojekwu v. Mojekwu* (1997)<sup>77</sup> and *Anekwe v. Nweke* (2014)<sup>78</sup> show strong support for exclusion when lineage is traced only through male offspring. Similar exclusions were present among the Ikwerre until more recent decisions in

<sup>68</sup>*Shodipo v Shodipo* [1990] WRN 98.

<sup>69</sup>*Maputo Protocol* 2003, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa <https://www.amnesty.org/en/wp-content/uploads/2021/09/ior630052004en.pdf> visited 8 December 2025

<sup>70</sup>*Idehen v Idehen* [1991] 9 NWLR (Pt 198) 352.

<sup>71</sup>*Lawal Osula v Lawal Osula* [1995] 9 NWLR (Pt 419) 259.

<sup>72</sup>*Ugboma v Ibeneme* [1967] FNL 251.

<sup>73</sup>*Salami v Salami* [1924] 5 NLR 43.

<sup>74</sup>*Oloko v Giwa* [1939] 15 NLR 31.

<sup>75</sup>*Sogunro-Davies v Sogunro-Davies* [1929] 2 NLR 79.

<sup>76</sup>*Nzekwu v Nzekwu* [1989] 2 NWLR (Pt 104) 373.

<sup>77</sup>*Mojekwu v Mojekwu* [1997] 7 NWLR (Pt 883) 196.

<sup>78</sup>*Anekwe v Nweke* [2014] 9 NWLR (Pt 1412) 393.



Ordu v. Elewa (2018),<sup>79</sup> indicated a shift. Legislative changes have followed in some states, such as the Cross River Female Persons Inheritance Law of 2007<sup>80</sup> and the Rivers State Prohibition of the Curtailment of the Rights of Women to Share in Family Property Law of 2022.

## 5. COMPARATIVE PERSPECTIVES ON GLOBAL LAND TENURE SYSTEM

Land tenure arrangements vary internationally, shaped by historical developments, legal frameworks and customary practices. In the United Kingdom, the Town and Country Planning Act 1990 regulates development, conservation and urban planning. National authorities set policies while local councils handle planning applications and approvals.<sup>81</sup> The Planning and Compulsory Purchase Act 2004 allows land acquisition for public purposes with compensation to owners. The system retains a feudal characteristic, with the Crown holding ultimate title and individuals managing estates within legal and planning requirements. The Compulsory Purchase Act 1965 governs compensation for acquired land, though disputes occasionally arise over valuation or allocation.<sup>82</sup> Section 106 agreements oblige developers to contribute to social welfare and environmental initiatives, affecting project costs and housing affordability.

Australia uses a decentralized tenure system, with states and territories controlling land use and planning. The Environmental Planning and Assessment Act 1979 in New South Wales establishes frameworks to balance development and environmental preservation.<sup>83</sup> Land acquisition for public projects is guided by the Land Acquisition Act 1989, ensuring compensation. Tenure includes freehold, leasehold and recognition of Indigenous land rights under the Native Title Act 1993, which provides legal avenues for resolving conflicts between

<sup>79</sup>Ordu v Elewa [2018] 17 NWLR (Pt 1649) 514.

<sup>80</sup>Cross-River State Female Persons Inheritance Law No. 10 2007.

<sup>81</sup>Overview of land policy in Nigeria” Lexicology (2021) <https://www.lexology.com/library/detail.aspx?visited> 24 October 2025.

<sup>82</sup> O. Olanrele, A. Alias, R. Said & N.A. Bello, “Towards Global Uniformity and Sustainable Compensation Valuation for Compulsory Land Acquisition” *Journal of Design&Built Environment* 17 (2017) 27–37.

<sup>83</sup> Government of Australia, *Registering an Asset*, Canberra: Australian Tax Office, 2023.



development and traditional ownership.<sup>84</sup> State-based land registries and the Torrens Title System secure ownership and record transfers, reducing disputes and clarifying rights. Indigenous Land Use Agreements facilitate negotiated access to land while protecting cultural and economic interests, though delays in compensation or regulatory requirements can affect landholders' financial position.<sup>85</sup>

In the United States, land tenure is managed mainly at state and municipal levels, with federal legislation providing overarching guidance. The Fifth Amendment permits government acquisition of private property for public use, provided owners receive compensation.<sup>86</sup> Local zoning laws define permissible land uses and federal laws such as the National Environmental Policy Act (NEPA) mandate environmental assessment for major projects.<sup>87</sup> Land is largely alienable, although some states restrict foreign ownership of agricultural land for national interest reasons.<sup>88</sup> Public land management, fiscal policies and housing incentives influence settlement patterns, while tribal lands are governed by treaties and federal oversight. Constitutional provisions regulate restrictions on land use, maintaining a balance between private rights and public objectives.

Programs in Rwanda and Colombia demonstrate how formalization strengthens tenure security. Rwanda Land Tenure Regularisation Program converted informal holdings into registered parcels and created a digital cadastre, reducing disputes and enhancing legal recognition (USAID, 2012).<sup>89</sup> Colombia Law 388 of 1997 formalized informal settlements within municipal planning, providing infrastructure and social housing support.<sup>90</sup> These

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<sup>84</sup> World Bank, *Lessons from land administration projects: A review of project performance assessments*, UN: World Bank Group, 2016.

<sup>85</sup> R. Jedwab, J. Brueckner & J. Barr, "Gauging the impact of land-use regulation in developing countries Project" (2022) <https://www.theigc.org/collections/gauging-impact-land-use-regulation-developing-countries> visited 24 October 2025.

<sup>86</sup> W.E. James Jr., *Property rights in American History* (2016) <https://www.hillsdale.edu/wp-content/uploads/2016/02/FMF-2008-Property-Rights-in-American-History.pdf> visited 24 October 2025.

<sup>87</sup> Organization for Economic Cooperation and Development (OECD), *The governance of land use: Country fact sheets United States*, UN: OECD, 2017.

<sup>88</sup> S. Shaw, "Western legislatures take on foreign land ownership" (2023) <https://www.hcn.org/articles/south-politics-western-legislatures-take-on-foreign-land-ownership> visited 24 October 2025.

<sup>89</sup> USAID, *Integrating customary land tenure into statutory law: A review of experience from seven Sub-Saharan African countries and the Kyrgyz Republic*, Property Rights and Resource Governance Project, 2012 <https://tenuresecurity.org/research-publication/integrating-customary-land-tenure-into-statutory-land-law/> visited 8 December 2025.

<sup>90</sup> A.G. Adam, "Systematic review of the changing land-to-people relationship and co-evolution of land administration" *Heliyon* (2023) Article e20637.



programs highlight the role of administrative systems and community engagement in converting informal tenure into recognized legal rights.

Urban land management presents distinct challenges in countries with different governance structures. In Australia, authorities coordinate with Indigenous landholders, using zoning and environmental regulations to guide development. The Torrens Title System maintains clear ownership records. In the United States, municipal zoning, federal oversight and environmental requirements shape urban expansion and influence property values and land allocation. Compulsory acquisition frameworks safeguard public access while recognizing private ownership.

Gender disparities affect tenure outcomes. Legal systems in Australia and the United States recognize women rights, but social norms and customary practices limit access. Rwanda land regularization included provisions for women and Colombia reforms ensured that female beneficiaries of informal settlements could secure property rights.<sup>91</sup> Conditional access through tenancy or community allocation allows women limited use while primary ownership remains with family or community.

Ethiopia and Nigeria exhibit gender gaps in land ownership. In Nigeria, 8.2 percent of women report sole ownership, compared with 34.2 percent for men and joint ownership remains lower for women.<sup>92</sup> In Ethiopia, 14.4 percent of women hold land individually, versus 32.3 percent for men, but joint ownership nearly equalizes access.<sup>93</sup> Postcolonial Nigeria administers land under the Land Use Act of 1978, vesting all land in the state while recognizing customary rights. Legal equality exists, yet the Act does not explicitly prevent discriminatory customary practices.

Ethiopia tenure system changed after the 1974 revolution, which abolished private rural land ownership (Land Proclamation No. 31/1975, art. 3.1). Reforms, including the 1995 Constitution (art. 35) and the Revised Family Code of 2000 (arts. 59, 68), granted statutory recognition of women rights over personal and marital property. The Rural Land

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<sup>91</sup>Lopez v Lopez [1924] 5 NLR 50.Sogunro-Davies v Sogunro-Davies [1929] 2 NLR 79.

<sup>92</sup>I. Gaddis, R. Lahoti & W. Li, *Gender gaps in property ownership in Sub-Saharan Africa* (Policy Research Working Paper 8573, World Bank, 2018).

<sup>93</sup>Ibid



Administration and Land Use Proclamation No. 456/2005 defined women rights to acquire and use rural land. Despite statutory protection, customary norms influence inheritance and access, with over 60 indigenous legal regimes affecting women property rights.<sup>94</sup> Evidence shows that land titling increases tenure security and decision-making. Ethiopia certification programs from 1998 to 2020 engaged community elders and women representatives, issuing over 15 million certificates, nearly 90 percent of which included women as sole or joint holders.<sup>95</sup> Nigeria lacks a national joint titling program and efforts by the Presidential Technical Committee for Land Reform in 2009 faced political and financial barriers, with the Land Use Act constitutionally entrenched.<sup>96</sup>

Inheritance remains the primary mode of land acquisition. Despite legal recognition, women often hold secondary rights mediated by male relatives. In Ethiopia Afar Region, customary rules restrict female inheritance.<sup>97</sup> Nigerian courts have invalidated discriminatory Igbo customs, including disinheritance practices.<sup>98</sup> Weak implementation mechanisms, such as flexible timelines for inheritance claims and revocable wills, further limit women rights. Ethiopian law permits inheritance only to family members residing permanently with the landholder (Rural Land Proclamation No. 456/2005, arts. 2(5), 8(5)), disadvantaging women who relocate to their husband household.<sup>99</sup>

Ethiopia requires spousal consent for transfer of marital property (Revised Family Code, 2000, art. 68). Nigeria provides no equivalent safeguard; spousal approval is required only when both names appear on title documents. Courts, in *Coker v. Coker*,<sup>100</sup> have recognized women interests based on contribution to property acquisition, yet statutory protections are weaker than in Ethiopia, leaving many women with ownership rights but limited control over land use.

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<sup>94</sup> D.A. Donovan & G. Assefa, “Homicide in Ethiopia: Human rights, federalism and legal pluralism” *American Journal of Comparative Law* 51(3) (2003) 505–552.

<sup>95</sup> H. Ghebru & F. Girmachew, *Direct and spillover effects of land rights formalization in Africa: A case study of the second-level land certification (SLLC) in Ethiopia* IFPRI Discussion Paper 01968, 2020.

<sup>96</sup> Ibid.

<sup>97</sup> A. Abebe & F.E. Flintan, “Women land rights: Customary rules and formal laws in the pastoral areas of Ethiopia Complementary or in conflict?” *African Journal on Land Policy and Geospatial Sciences* 5(5) (2021) 1047–1065.

<sup>98</sup> Ukeje (n16). *Mojekwu v Mojekwu* [1997] 7 NWLR (Pt 883) 196.

<sup>99</sup> A.A. Belay & T.G. Abza, “Protecting the land rights of women through an inclusive land registration system” *African Journal on Land Policy and Geospatial Sciences* 3(2) (2020) 29–40.

<sup>100</sup> *Coker v Jinadu* [1958] LLR 77.



## 6. WOMEN LAND TENURE CHALLENGES UNDER CUSTOMARY LAW IN NIGERIA

1. **Custom, Tradition and Religious Norms:** Access to land for women is constrained by customary, traditional and religious rules that govern ownership, inheritance and allocation.<sup>101</sup> In many communities, land is considered a family resource to circulate through male descendants. Women typically access land through male relatives, such as fathers, husbands, or sons. Male lineage systems often exclude daughters and widows from inheritance, leaving women dependent on male approval for occupation or cultivation.<sup>102</sup>
2. **Inheritance Practices:** Daughters and widows frequently encounter restrictions in inheritance due to principles like primogeniture or male-line succession. For instance, in Benin and Esan communities, inheritance rights pass exclusively to the eldest son after performing burial rites.<sup>103</sup> Among Igbo communities, customary rules reserve succession for men, limiting women entitlement to land.<sup>104</sup> Exceptions exist in Yoruba communities where daughters may inherit under specific conditions, yet widows remain largely excluded.<sup>105</sup>
3. **Matrimonial Influences:** Marriage structures, including bride price and dowry systems, affect women access to land. Upon widowhood or divorce, women may lose occupation rights, as land control often remains with the husband family.<sup>106</sup> Women without male children face additional exclusion from inheritance or ongoing use of matrimonial land.<sup>107</sup>
4. **Legal Gaps and Weak Enforcement:** Although statutory frameworks, such as the Land Use Act of 1978, formally grant women rights to acquire and use land, enforcement in rural areas remains inconsistent. Courts occasionally recognize women interests, but local authorities and traditional leaders continue practices that restrict women participation.<sup>108</sup>

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<sup>101</sup>Abebe (n97).

<sup>102</sup>Nwakoby (n63).

<sup>103</sup>Idehen v Idehen [1991] 9 NWLR (Pt 198) 352. Lawal Osula v Lawal Osula [1995] 9 NWLR (Pt 419) 259.

<sup>104</sup>Ugboma v Ibeneme [1967] FNL 251.

<sup>105</sup>Salami v Salami [1924] 5 NLR 43.

<sup>106</sup>Mojekwu v Mojekwu [1997] 7 NWLR (Pt 883) 196.

<sup>107</sup>Anekwe v Anekwe (2014) LPELR-22697 (SC).

<sup>108</sup>Akpovi (n61).



5. **Dependence on Male Custodians:** In many communities, women ability to access, manage, or transfer land is contingent on male family members. This dependency limits their decision-making power and makes them vulnerable to revocation of usufruct rights.<sup>109</sup>
6. **Socio-Cultural Expectations:** Community norms often expect women to prioritize household and caregiving roles over land management. These expectations reduce women engagement in land allocation discussions, formal registration processes and dispute resolution mechanisms.<sup>110</sup>
7. **Limited Awareness of Legal Rights:** Many women lack information on statutory land rights or the procedures to enforce them. In communities where customary norms dominate, women rarely assert claims due to fear of family conflict or social sanctions.<sup>111</sup>
8. **Economic Constraints:** Financial requirements for land acquisition or registration limit women ability to secure tenure. Legal processes, payments for surveys, or fees for registration often exceed the means of women who rely on informal or subsistence livelihoods.<sup>112</sup>
9. **Exclusion from Decision-Making Bodies:** Women representation in land management councils, family committees and community assemblies remains minimal. This exclusion consolidates male control over allocation and succession decisions, maintaining patterns of unequal land distribution.<sup>113</sup>
10. **Conflicts Between Statutory and Customary Law:** Legal statutes recognize women rights to own and inherit land, yet customary systems frequently override these provisions in practice. Courts sometimes intervene, where Igbo customary disinheritance was declared unconstitutional, but enforcement challenges persist at the community level.<sup>114</sup>
11. **Inheritance Through Male Relatives:** Women often acquire land indirectly through male family members. The absence of joint titling mechanisms limits their security, especially when property is transferred or sold without their consent.<sup>115</sup>

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<sup>109</sup>Abebe (n97).

<sup>110</sup>Nwakoby (n63).

<sup>111</sup>Umukoro (n62).

<sup>112</sup> Ibid

<sup>113</sup>n165

<sup>114</sup>Ukeje (n16).

<sup>115</sup>Abebe (n97).



12. **Widowhood Vulnerabilities:** Widows face particular challenges, as continued residence on matrimonial land may depend on conforming to family rules or producing male heirs. Recent reforms in Rivers State and Cross River have attempted to safeguard widows' inheritance rights, but implementation remains inconsistent.<sup>116</sup>
13. **Fragmented Customary Systems:** Nigeria hosts over 200 ethnic groups with distinct customary laws, creating uneven access for women. Practices vary between regions and knowledge of specific rules is critical to asserting rights, complicating uniform application of statutory protections.<sup>117</sup>
14. **Risk of Dispossession:** Women with conditional access to land are vulnerable to eviction if male relatives exercise superior claims. This risk arises when customary authorities grant allocations that prioritize male lineage over statutory rights, limiting women long-term tenure security.<sup>118</sup>
15. **Limited Recourse to Formal Mechanisms:** Fear of social reprisal, cost of litigation and low awareness of judicial remedies reduce women engagement with courts or land offices. Even when legal protections exist, women often rely on informal negotiations mediated by family or elders, leaving outcomes dependent on male discretion.<sup>119</sup>

## 7. CONCLUSION

Land constitutes a critical resource for livelihoods, economic activity and social identity, with access and control shaped by historical, legal and cultural frameworks. In Nigeria, pre-colonial land tenure systems assigned rights through family or communal structures, granting male members primary control while limiting women participation. The introduction of statutory and colonial land laws created overlapping systems that further complicated ownership, inheritance and management, producing legal pluralism with inconsistent enforcement. The Land Use Act of 1978 sought to unify these tenure arrangements, standardize allocation procedures and secure tenure for citizens. While the Act provided formal structures for state and local governments to manage land distribution, practical implementation continues to favor men, leaving women dependent on male relatives and vulnerable to dispossession. Persistent cultural norms, patriarchal inheritance practices and socio-economic factors restrict women

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<sup>116</sup>Ordu v Elewa [2018] 17 NWLR (Pt 1649) 514.

<sup>117</sup>Abebe (n97).

<sup>118</sup>Nwakoby (n63).

<sup>119</sup>Umukoro (n62).



ability to acquire, control, or inherit land, affecting their participation in agriculture and economic programs.

Urbanization has intensified land challenges, with informal settlements emerging in areas of high demand, limited affordability and weak institutional oversight. Tenure insecurity in these settlements hampers access to services, investment and social stability, highlighting the need for policies that reflect local socio-cultural realities. Evidence from African countries illustrates that legal reforms alone do not ensure equitable land access; customary practices and community enforcement mechanisms influence outcomes. Secure land tenure remains vital for reducing disputes, supporting agricultural productivity and enhancing socio-economic well-being. Efforts to formalize land rights must address administrative bottlenecks, integrate customary norms where appropriate and provide protection for vulnerable groups, particularly women, to achieve fairness in land distribution and long-term development objectives.

## **8. RECOMMENDATIONS**

1. Women should be supported to assert their land rights in line with the Land Use Act of 1978 by providing legal aid and community education on statutory and customary land entitlements.
2. Local governments and customary authorities must implement provisions of the Constitution of the Federal Republic of Nigeria, 1999 (Sections 17 and 42) to eliminate gender-based discrimination in land access.
3. Training programs should be organized to educate women on procedures for acquiring land under the Land Use Act of 1978 and relevant state land regulations.
4. Cultural practices that restrict women inheritance should be reviewed and aligned with the Women Rights (Enforcement etc.) Act, 2004, ensuring equal access to family and community land.
5. Mechanisms for dispute resolution should incorporate the Land Use Act of 1978 and customary law harmonization policies to protect women from land dispossession during widowhood or divorce.