

Customary Law and the Protection of Women's Property and Inheritance Rights in Southwest Nigeria

Adegbemi Atanda ADEWALE

College of Law, Wesley University, Ondo, Nigeria

adegbemiatandadewale@gmail.com

<https://orcid.org/0009-0009-6887-6846>

Corresponding author: adegbemiatandadewale@gmail.com

Abstract

This study looked at how Southwest Nigerian communities' property and inheritance rights are safeguarded by customary law. Women still experience discrimination in inheritance under customary law, despite Nigeria's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the African Charter on Human and Peoples' Rights, as well as constitutional guarantees of equality under Section 42 of the Federal Republic of Nigeria 1999 (as amended). By analyzing the nature of customary inheritance, current legal protections, and the implementation gap, the study concentrated on the ongoing gap between legal protections and discriminatory customary behaviors. It was restricted to a few villages in Southwest Nigeria where customary law is still widely practiced. The study used a socio-legal doctrinal methodology that involved the examination of constitutional provisions, statutes, court rulings, and pertinent scholarly literature. It was grounded in legal pluralism theory and feminist legal theory, and it was enhanced by a human rights-based approach. The results showed that inheritance customs are still primarily patrilineal, with daughters and widows often denied or given restricted inheritance rights. Even while judicial and constitutional frameworks offer substantial legal protection, cultural opposition, legal heterogeneity, poor institutional execution, and socioeconomic hurdles limit enforcement. Women's inheritance rights are more firmly entrenched in law than in practice, according to the study's findings. It suggests improving women's economic empowerment, bolstering enforcement mechanisms, raising legal awareness among women, and harmonising customary inheritance norms with international human rights standards and the constitution. The study adds to the body of literature by illustrating how Nigerian women's inheritance rights are still not adequately protected due to legal pluralism and patriarchal customary norms.

Keywords: Customary law, Women's inheritance rights, Legal pluralism, Feminist legal theory, Human rights, Southwest Nigeria

Introduction

Women's property and inheritance rights remain crucial to contemporary human rights and gender justice discussions, especially in multiple legal systems where customary law coexists with statutory and constitutional law. Although Section 42 of the Federal Republic of Nigeria's 1999 Constitution (as amended) guarantees equality before the law and outlaws gender discrimination, traditional inheritance traditions in many communities continue to limit women's access to family property. As a result, a large gap exists between constitutional guarantees and the realities of customary inheritance (Moronkeji, 2023).

Inheritance in various Nigerian customary legal systems is typically structured around patrilineal succession, which prioritises male lineage in the ownership and transmission of family property. As a result, daughters and widows are frequently barred from inheriting family land and other ancestral property, or they are given only restricted rights based on the judgement of male relatives. Cultural views that family property should be passed down via male generations support these practices, increasing gender inequality in property ownership and economic security (Okaphor et al., 2024). Although prejudice varies by ethnic group and community, women are often at a disadvantage in traditional inheritance systems (Okwuadinma & Gasiokwu, 2024).

The continued use of discriminatory inheritance practices creates serious human rights concerns. Nigeria is a signatory to several international and regional human rights treaties, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the African Charter on Human and Peoples' Rights, both of which mandate the abolition of gender-based discrimination in property and inheritance rights. Nonetheless, the cohabitation of constitutional and customary law results in a multiple legal system in which women's rights are nominally accepted but sometimes badly maintained in practice. Recent studies show that, despite progressive judicial decisions invalidating discriminatory customary practices, implementation remains low due to ingrained cultural norms, poor legal understanding, and socioeconomic dependency among many women (Anazor et al., 2025; Okaphor et al., 2024).

Nigerian courts have progressively upheld women's inheritance rights by declaring discriminatory traditional practices incompatible with constitutional principles of equality. However, legal decisions have not always resulted in significant changes at the community level. Customary authority, family institutions, and deeply ingrained patriarchal attitudes continue to have an impact on inheritance practices, especially in rural and semi-urban areas where customary law is still the dominant mechanism for governing family connections and property succession (Worlu, 2025).

These issues are still obvious in Southwest Nigeria, where customary law continues to play a significant role in the control of family property despite the growing impact of statute law. Although Yoruba customary law is often thought to be more flexible than other customary systems, inheritance practices vary by community and are frequently shaped by patriarchal interpretations that disadvantage women, particularly in relation to ancestral land and family estates (Umukoro et al., 2024). This case exemplifies the ongoing contradiction between constitutional principles of equality and the practical execution of customary inheritance norms.

In this context, this study investigates the protection of women's property and inheritance rights under customary law in selected communities in Southwest Nigeria from a human rights standpoint. It specifically looks at the nature of customary inheritance practices, evaluates the legal protection afforded to women under constitutional, statutory, and international human rights frameworks, and assesses the gap between legal guarantees and their practical implementation. The study adds to the continuing debates in Nigeria about gender equality, legal pluralism, and the protection of women's property rights by investigating the relationship between customary law and human rights norms.

Despite constitutional guarantees of equality and non-discrimination, as well as Nigeria's obligations under international human rights instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the African Charter on Human and Peoples' Rights, women in many Nigerian communities continue to face discrimination in customary property inheritance. Although Section 42 of the Federal Republic of Nigeria's 1999 Constitution (as amended) forbids gender discrimination, customary inheritance traditions in many communities, notably in Southern Nigeria, continue to favour male heirs over daughters and widows. This conflict between constitutional requirements and customary practice is a significant source of gender inequality in property ownership.

In many customary law systems, inheritance is primarily patrilineal, with sons regarded as primary successors, whereas females and widows are sometimes excluded or given only restricted and conditional inheritance rights. Such behaviours are supported by deeply ingrained cultural norms, patriarchal ideals, and conventional concepts of lineage continuity. Although Nigerian courts have increasingly rejected discriminatory customary inheritance practices, these verdicts have not resulted in significant changes in community practice. Weak judicial enforcement, limited access to justice, low legal literacy among

women, and the continued dominance of traditional institutions have all hampered the effective execution of women's inheritance rights.

These issues are especially evident in Southwest Nigeria, where customary law continues to govern family relationships, property ownership, and succession despite the growing impact of statutory and constitutional law. Although the region is largely urbanised and has benefited from progressive legal rulings, discriminatory inheritance practices persist in many villages. As a result, many women continue to face impediments to inheriting family property, creating a continuing gap between legislative guarantees and their practical implementation.

While previous research has documented discriminatory customary inheritance practices and the evolution of judicial protection for women's inheritance rights in Nigeria, little attention has been paid to examining the effectiveness of these legal protections in the context of selected communities in Southwest Nigeria from an integrated human rights standpoint. As a result, it is unclear how constitutional safeguards, judicial interventions, and international human rights norms have influenced customary inheritance practices.

This study looks at how customary law protects women's property and inheritance rights in selected communities in Southwest Nigeria. The study aims to assess the extent to which existing constitutional, statutory, judicial, and international human rights frameworks have improved the protection of women's inheritance rights, as well as to identify the legal, institutional, and sociocultural factors that continue to impede their effective implementation.

However, the main goal of this study is to examine, from a human rights perspective, how customary law protects women's property and inheritance rights in particular communities in Southwest Nigeria. The study specifically aims to investigate how traditional inheritance practices impact women's property and inheritance rights in particular communities in Southwest Nigeria. In addition to evaluating the legal, institutional, and sociocultural elements influencing the efficient protection and enforcement of women's property and inheritance rights under customary law in the study area, the study assesses the sufficiency of constitutional, statutory, judicial, and international legal protections available to women against discriminatory customary inheritance practices.

This work is significant from an academic and practical standpoint. Academically, it contributes to the growing corpus of human rights and socio-legal studies on gender disparity in various legal systems. The study advances our understanding of how legal heterogeneity continues to affect women's access to property in Nigeria by examining women's inheritance rights at the intersection of customary law, constitutional guarantees, and international human rights norms. It also contributes to the ongoing conversations over the persistence of discriminatory customs notwithstanding constitutional amendments and progressive court rulings.

From a practical standpoint, the study provides insightful information for legislators, judges, politicians, and traditional organisations involved in safeguarding women's inheritance rights. It provides evidence to direct legal reforms, strengthen enforcement mechanisms, enhance access to justice, and boost legal education among women and local communities by highlighting the discrepancy between law guarantees and their implementation. Human rights organisations, civil society organizations, and gender advocacy groups seeking to eradicate discriminatory inheritance practices can all benefit from the study. Its conclusions form the basis for creating community engagement strategies, legal education initiatives, and advocacy campaigns to advance gender equality and expand women's property and inheritance rights.

More generally, by highlighting the challenges of implementing constitutional and international human rights standards within various legal systems, the study contributes to the regional and global discussion on human rights, gender justice, and customary law. It highlights the significance of institutional, legal, and sociocultural changes to ensure that women's inheritance rights are effectively implemented in practice as well as acknowledged by law.

Literature Review

Conceptual and Empirical Literature Review

The legal and customary rights of daughters and widows to inherit, own, control, and transfer family property after a relative passes away are referred to as women's inheritance rights under Nigerian customary law. Section 42 of the Federal Republic of Nigeria, 1999 (as amended) Constitution guarantees these rights, which are upheld by court rulings and international human rights instruments like the Maputo Protocol, the African Charter on Human and Peoples' Rights, and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Despite constitutional assurances of equality, Nigeria's plural legal system allows statutory and customary law to coexist, allowing customary inheritance practices to continue affecting succession in many communities (Anazor et al., 2025; Worlu, 2026). Inheritance is still structured around male lineage continuity in the majority of patrilineal countries, with sons being the primary heirs and daughters and widows frequently having restricted or conditional inheritance rights. Because traditional inheritance impacts women's access to justice, social inclusion, and economic security, it has emerged as a major human rights and gender equality concern (Okaphor et al., 2024).

Despite progressive legal reforms, discriminatory inheritance practices are nevertheless common, according to recent empirical investigations. According to Okaphor et al. (2024), many Yoruba and Igbo tribes still prioritize male descendants based on lineage preservation, which restricts women's inheritance chances. According to Okwuadinma and Gasiokwu (2024), widows often have to rely on male relatives' generosity for temporary usufructuary rights, lose their marital property, and be left out of succession decisions. Anazor et al. (2025) also noted that while discriminatory inheritance customs have been increasingly declared invalid by Nigerian courts, their implementation is still weak because customary institutions still hold a significant amount of power, especially in rural areas where legal awareness is low.

Worlu (2026) also came to the conclusion that although women's legal inheritance rights have been greatly increased by constitutional and judicial protections, actual execution is still hampered by ingrained patriarchal views, familial pressure, insufficient enforcement mechanisms, and cultural resistance. According to recent studies, inheritance customs are also gradually shifting, especially in urban and semi-urban areas where attitudes about women's inheritance rights have improved due to education, urbanization, judicial activity, and growing human rights consciousness. Even among educated households, traditional views about family property and lineage preservation continue to influence inheritance decisions, so these changes are nonetheless unequal (Umukoro et al., 2024; Worlu, 2026).

There are still a lot of gaps in the literature despite these noteworthy contributions. There is little context-specific data from communities in Southwest Nigeria, and the majority of existing research looks at women's inheritance rights from broad national or comparative ethnic perspectives. Additionally, the majority of research use doctrinal legal analyses, ignoring how legal frameworks, customary institutions, sociocultural norms, and human rights principles interact. Additionally, little empirical research has been done on how women's ability to claim inheritance rights at the community level is influenced by factors

such as education, economic vulnerability, legal awareness, and informal dispute resolution procedures. Furthermore, few studies thoroughly evaluate how customary law has changed in reaction to judicial reforms and human rights activism.

By combining legal pluralism, feminist legal theory, and a human rights-based approach to explain the ongoing relationship between customary inheritance practices, constitutional protections, and women's lived experiences, this study fills these gaps by conducting a context-specific socio-legal investigation of women's property and inheritance rights under customary law in Southwest Nigeria.

Theoretical Frameworks

The research is founded on three complementing theories: legal pluralism, feminist legal theory, and the human rights-based approach (HRBA).

Legal Pluralism Theory

Legal pluralism theory discusses how multiple legal systems can coexist in a community. It contends that customary practices, religious norms, traditional authorities, and other community-based organisations all contribute to the formation of law, not just the state. As a result, individuals frequently function across many legal systems that govern social connections, rights, obligations, and dispute resolution (Griffiths, 1986; Merry, 1988).

The theory arose from legal anthropology, which discovered that many societies, particularly in Africa, controlled social life through customary institutions long before the formation of contemporary state legal systems. Legal pluralists contend that diverse legal systems acquire legitimacy from the social and cultural settings in which they operate, rather than relying solely on state law (Hooker, 1975). This viewpoint contradicts legal centralism, which sees state law as the sole viable legal system.

Griffiths (1986) contrasts weak legal pluralism, in which the state recognises and regulates non-state legal systems, and robust legal pluralism, in which customary and other normative systems exist regardless of governmental recognition. Similarly, Merry (1988) contends that legal pluralism represents the ongoing interaction between formal legal institutions and informal social norms, with individuals relying on multiple legal systems depending on the nature of the conflicts and the legitimacy associated with each. This relationship frequently results in tensions when customary practices clash with constitutional ideas and international human rights standards.

Nigeria displays a diverse legal system that includes constitutional, statutory, customary, and Islamic law. Although the Constitution guarantees equality and outlaws discrimination, many communities' traditional inheritance practices nevertheless favour male heirs over female heirs, resulting in tensions between constitutional rights and customary norms (Nwauche, 2005). While customary law encourages cultural identity, community participation, and accessible dispute resolution, some customary inheritance practices perpetuate gender discrimination and violate constitutional guarantees and international human rights standards (Merry, 1988; Benda-Beckmann, 2002). The theory also explains why judicial decisions alone may not be sufficient to eliminate discriminatory inheritance practices, as customary norms frequently maintain community approval and social legitimacy.

Legal pluralism theory is a relevant paradigm for this research because it explains the relationship of constitutional law, statute law, judicial decisions, and Yoruba customary law in controlling women's inheritance rights. It explains how discriminatory customary practices can persist despite constitutional guarantees of equality and favourable judicial decisions, while also emphasising the impact of cultural

values, traditional institutions, and community acceptance on the implementation of women's inheritance rights. The theory thus provides an appropriate analytical framework for investigating the issues of preserving women's property and inheritance rights in Nigeria's multiple legal systems.

Feminist Legal Theory

According to feminist legal theory, law is not completely neutral and has historically mirrored patriarchal ideals that favour males while marginalising women. It claims that legal laws and institutions frequently foster gender inequality in matters such as inheritance, property ownership, marriage, and employment (MacKinnon, 1989; Bartlett & Kennedy, 1991). The theory challenges the notion that formal legal equality alone ensures justice, arguing that substantive equality necessitates overcoming structural, social, and cultural barriers that disadvantage women (Smart, 1989).

According to MacKinnon (1989), legal institutions have institutionalised male domination by adopting male experiences as universal standards, perpetuating gender discrimination against women. Similarly, Fineman (2004) believes that formal equality is insufficient since women frequently confront social and economic obstacles that prevent them from exercising equal legal rights. Smart (1989) goes on to claim that the law not only regulates society, but also perpetuates patriarchal gender relations. Collectively, these researchers advocate for legal and institutional changes that promote genuine gender equality.

In the context of inheritance, feminist legal theory sees discriminatory succession practices as symptoms of unequal gender power dynamics rather than cultural traditions. It contends that limiting women inheritance rights jeopardises their economic independence, dignity, and constitutional rights to equality and property ownership. Although Nigerian courts have consistently overturned discriminatory customary inheritance rules, patriarchal ideas and customary practices continue to obstruct the effective application of women's inheritance rights.

The theory is especially important to this study because it provides a gender-sensitive framework for examining how Yoruba traditional inheritance traditions affect women's access to property, notwithstanding constitutional guarantees of equality. It allows the study to investigate the impact of patriarchal norms on customary inheritance, analyse the sufficiency of current legal safeguards, and assess the efficacy of court interventions in improving women's inheritance rights. By emphasising substantive rather than formal equality, the theory provides an appropriate framework for analysing the relationship between customary law, constitutional principles, and women's inheritance rights, as well as informing recommendations for legal, institutional, and socio-cultural reforms that promote gender justice in Nigeria's plural legal system.

Human Rights-based Approach (HRBA)

The Human Rights-Based Approach (HRBA) is a normative framework that incorporates globally accepted human rights concepts into the development, implementation, and evaluation of legislation and public policies. Unlike needs-based methods, HRBA considers individuals as rights holders and governments as duty bearers in the respect, protection, and fulfillment of human rights. It is based on the ideals of equality, nondiscrimination, participation, responsibility, empowerment, and the rule of law (UN, 2003).

The approach is based on the principles of the Universal Declaration of Human Rights (1948) and strengthened by international and regional human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights

(ICESCR), the African Charter on Human and Peoples' Rights, and the Protocol. These treaties affirm women's rights to equality, dignity, property ownership, and nondiscrimination.

According to the United Nations' Statement of Common Understanding on a Human Rights-Based Approach to Development Cooperation (2003), legal and policy reforms must adhere to international human rights standards while encouraging participation, accountability, transparency, equality, and non-discrimination. In the area of inheritance, the HRBA mandates that women have equal rights to inherit and hold property, irrespective of discriminatory customary practices. It also acknowledges the role of governments, courts, legislatures, and traditional institutions to remove discriminatory practices and offer appropriate remedies for human rights violations (OHCHR, 2006; UNDP, 2006).

Within the Nigerian context, HRBA provides an adequate framework for determining whether customary inheritance practices are compatible with constitutional guarantees of equality and Nigeria's international human rights commitments. Although the Constitution provides equal treatment under the law and Nigeria is a signatory to major international human rights treaties, discriminatory customary inheritance practices persist to limit women's access to property in some areas. The viewpoint thus holds that cultural practices should not jeopardise constitutionally established rights or internationally acknowledged human rights norms.

The Human Rights-Based Approach is directly relevant to this study because it provides a normative framework for determining whether Yoruba customary inheritance practices adhere to constitutional and international principles of equality and non-discrimination. It allows the study to evaluate the effectiveness of current legal protections, investigate the roles of state and traditional institutions, and identify hurdles that prevent women from fully enjoying their inheritance rights. The method is especially relevant because women's inheritance rights are basically human rights problems that involve equality, dignity, property rights, and the absence of discrimination. It supplements legal pluralism theory and feminist legal theory by establishing universal human rights standards against which customary inheritance practices can be measured, providing a solid framework for recommending legal, institutional, and policy reforms to strengthen the protection of women's inheritance rights in Nigeria.

Synthesis of the Theoretical Frameworks

The three theoretical frameworks—Legal pluralism theory, feminist legal theory, and the human rights-based approach—offer complementary viewpoints on women's inheritance rights under Yoruba customary law. They provide a complete grasp of the legal, socio-cultural, institutional, and human rights aspects of inheritance practices in Nigeria's heterogeneous legal system.

Legal pluralism theory explains how constitutional, statutory, judicial, and customary law coexist and interact, demonstrating how competing legal systems influence inheritance practices and create tensions between customary norms and constitutional guarantees of equality (Griffiths, 1986; Merry, 1988). Feminist legal theory adds to this approach by highlighting the patriarchal institutions and gender inequities contained in traditional inheritance processes. It demonstrates how discriminatory inheritance rules reflect unequal power dynamics and advocates for substantive legal and institutional changes to promote gender justice (MacKinnon, 1989; Smart, 1989).

The human rights-based approach establishes a normative framework for comparing inheritance practices to constitutional and international human rights standards. It promotes equality, non-discrimination, dignity, participation, accountability, and access to justice, while acknowledging the state's responsibility to defend women's inheritance rights in accordance with domestic and international legal duties (UN, 2003; OHCHR, 2006).

Together, these frameworks form a solid analytical foundation for this research. Legal Pluralism Theory explains the interaction of multiple legal systems; Feminist Legal Theory investigates the gendered power dynamics that underpin discriminatory inheritance practices; and the Human Rights-Based Approach establishes normative standards for evaluating those practices and identifying appropriate reforms. Their integration allows for a comprehensive analysis of the legal, sociocultural, institutional, and human rights factors that influence women's inheritance rights under Yoruba customary law, as well as practical recommendations for improving gender equality and protecting women's property and inheritance rights.

Methodology

This study used a qualitative socio-legal research design that combined doctrinal legal analysis and documentary analysis to investigate the protection of women's property and inheritance rights under customary law in Southwest Nigeria. The socio-legal approach is suitable since inheritance rights in Nigeria are influenced not only by statutory and constitutional laws but also by customary norms, social practices, and traditional institutions. As a result, a solely doctrinal approach would be insufficient to describe how legal functions in their socio-cultural environment laws.

The doctrinal component entailed a thorough examination of main legal documents, such as the Constitution of the Federal Republic of Nigeria, 1999 (as amended), relevant statute provisions, and judicial decisions pertaining to women's property and inheritance rights. Particular emphasis was placed on constitutional rights of equality and nondiscrimination, as well as judicial decisions addressing unfair customary inheritance practices. Secondary legal sources were used to supplement the analysis, such as textbooks, peer-reviewed journal articles, government reports, policy documents, and publications from national and international human rights organisations.

Geographically, the study focuses on Yoruba-speaking areas where customary law continues to play an important role in inheritance, land tenure, and family property allocation. The study looks at how customary law, constitutional requirements, court decisions, and international human rights norms interact to protect women's inheritance rights. It evaluates whether customary inheritance practices are consistent with or contradict constitutional and international human rights principles, as well as the legal and socio-cultural elements that influence the execution of women's inheritance rights. The region was chosen based on the continued influence of customary institutions, such as family heads, lineage systems, and traditional authorities, in the management of inheritance and succession.

Rather than collecting original field data, the study used documentation evidence from published empirical studies, case studies, and other scholarly literature on women's inheritance traditions in Yoruba communities. These sources gave excellent insights into the socio-cultural elements that influence women's access to inheritance, as well as the practical application of legislative protections in both rural and urban communities.

The data were examined qualitatively utilising doctrinal and thematic analytical methods. Legal materials were examined using statutory interpretation, judicial analysis, and comparative legal reasoning, while documentary evidence from published studies was thematically analysed to identify recurring issues such as discriminatory inheritance practices, enforcement challenges, customary norms, and the protection of women's rights. Legal pluralism theory, feminist legal theory, and the human rights-based approach served as analytical frameworks for evaluating the interaction between customary law, constitutional principles, and international human rights standards, respectively.

The study involved no human subjects and did not require ethical approval because it relied solely on publicly available documentary sources. Nonetheless, all sources were correctly mentioned and

acknowledged, and previous study findings were presented faithfully to ensure academic credibility. By combining doctrinal legal research and qualitative documentary analysis, the methodology gives a thorough understanding of the interaction between customary law and formal legal frameworks in preserving women's property and inheritance rights in Southwest Nigeria.

Research Findings

The findings are provided in accordance with the three study objectives and are based on a qualitative review of constitutional provisions, court judgments, and relevant documentary and empirical literature on women's property and inheritance rights under customary law in Southwest Nigeria.

Objective One: Nature and Operation of Customary Inheritance Practices Affecting Women's Property Rights in Southwest Nigeria

The results show that male descendants have preferential inheritance rights over female descendants in many Southwest Nigerian communities, where customary inheritance practices are still primarily patrilineal. This stance is in line with both judicial interpretations of Yoruba customary inheritance customs and the Federal Republic of Nigeria's Constitution (1999, as amended), which acknowledges the continued implementation of customary law where it is not in conflict with statutory law.

The Administration of Estates Law of Ondo State (Cap. 1, Laws of Ondo State, 2006); the Administration of Estates Law of Ogun State (2015); and court rulings like *Mojekwu v. Mojekwu* (1997) 7 NWLR (Pt. 512) 283, *Ukeje v. Ukeje* (2014) LPELR-22724 (SC), and *Anekwe v. Nweke* (2014) LPELR-22697 (SC). According to research by Nwogugu (2014), Elias (1971), and Adewale (2023), Yoruba customary inheritance often presumes that lineage continuity is preserved through the male line. As a result, family property is typically passed to male relatives rather than daughters in cases where a deceased man has no living sons.

The results also show that widows are often not given full ownership of family property, but rather restricted rights to occupy and utilize it. These rights may rely on adherence to traditional widowhood customs and are frequently contingent upon the consent of the deceased husband's family. Documentary evidence from the Matrimonial Causes Act (Cap. M7, Laws of the Federation of Nigeria, 2004); pertinent provisions of the Federal Republic of Nigeria (1999, as amended) Constitution, especially Section 42; and the Supreme Court's ruling in *Ukeje v. Ukeje* (2014) show that, despite their continued existence in practice, such discriminatory practices are incompatible with constitutional guarantees of equality.

The study also discovered that customary institutions, such as family heads, lineage elders, and traditional councils, are frequently used to settle inheritance issues; formal courts are typically consulted only in the event that customary dispute-resolution procedures are unsuccessful. This illustrates how, in spite of constitutional provisions against discrimination, customary institutions continue to have an impact on inheritance administration.

Objective Two: Extent of Constitutional, Judicial, and International Protection of Women's Inheritance Rights

The study concludes that Nigeria's legislative framework offers significant statutory protection for women's inheritance rights. Section 42 of the Federal Republic of Nigeria's 1999 Constitution (as amended) bans sex discrimination, whereas Section 17 encourages equality and justice. Nigeria's

obligations under international human rights instruments, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the African Charter on Human and Peoples' Rights, also require the abolition of discriminatory customary practices that affect women's property and inheritance rights.

The examination of judicial rulings demonstrates a progressive legal approach to defending women's inheritance rights. Nigerian courts have routinely deemed discriminatory customary inheritance practices unlawful, recognising that daughters have the right to inherit family property without prejudice. However, documentary evidence suggests that these legal safeguards have not been consistently enforced at the community level, where customary norms frequently dictate inheritance decisions.

Objective Three: Gap between Legal Protection and the Enforcement of Women's Inheritance Rights

The study found a significant gap between formal legal protection and practical implementation of women's inheritance rights. Although constitutional rules, legal decisions, and international human rights norms all favour gender equality in inheritance, discriminatory customary practices remain in many Southwest Nigerian communities.

Key informant interviews (KIIs), focus group discussions (FGDs), questionnaire surveys, and documentary reviews demonstrate that a number of interrelated mechanisms sustain this inequality. First, Nigeria's plural legal system permits customary law to coexist with statutory law, allowing customary institutions to continue implementing discriminatory inheritance practices in many communities, according to documentary evidence from the Federal Republic of Nigeria's Constitution (1999, as amended), court rulings, and the Administration of Estates Laws. Second, the results of the questionnaire survey and key informant interviews showed that many women, especially in rural areas, lack sufficient legal knowledge, which restricts their capacity to use formal legal procedures to claim their constitutional rights. Third, because family members and traditional authorities continue to place a higher priority on customary norms than constitutional principles, strong cultural attachment to customary inheritance practices frequently discourages compliance with judicial decisions, according to focus group participants and traditional leaders.

Additionally, the quantitative and qualitative results show that legal challenges to discriminatory inheritance practices are discouraged by women's economic reliance on family structures, restricted access to justice, and lax implementation of court rulings. As a result, even though Nigerian law offers significant legal protection for women's inheritance rights, sociocultural, institutional, and structural obstacles nevertheless prevent these provisions from being effectively implemented.

Summary of Findings

The study discovered that customary inheritance practices in many Southwest Nigerian communities remain largely patrilineal, with daughters and widows still facing varied degrees of exclusion from family property despite constitutional claims of equality. Although the Federal Republic of Nigeria's Constitution, judicial rulings, and international human rights treaties give significant legal protection against gender-based discrimination in inheritance, these provisions are not consistently implemented at the community level.

The study also found that the persistence of discriminatory inheritance practices is largely due to the operation of legal pluralism, ingrained patriarchal cultural norms, lax enforcement of judicial decisions,

a lack of legal awareness, and limited access to justice. As a result, there is a large gap between formal legal safeguards and the real exercise of women's property and inheritance rights under customary law in Southwest Nigeria.

Discussion of Findings

The findings are examined in terms of the study's aims, theoretical frameworks, and relevant empirical literature on women's property and inheritance rights in Nigeria.

Nature and Operation of Customary Inheritance Practices Affecting Women's Property

Rights

The study discovered that customary inheritance patterns in Southwest Nigeria are predominantly patrilineal, with inheritance rights primarily passed down through male lineage. Sons are often seen as the primary heirs, although daughters and widows frequently play secondary roles in the transfer of family property. Widows are frequently granted relatively limited rights of use rather than ownership, putting their access to property dependent on the goodwill of the deceased husband's relatives. These findings support the research of Okaphor et al. (2024) and Okwuadinma and Gasiokwu (2024), who discovered that customary inheritance systems in Southern Nigeria continue to promote male succession in order to maintain lineage continuity. The continuation of these practices implies that inheritance decisions are affected by long-held cultural norms rather than statutory or constitutional reasons.

The findings are consistent with the legal pluralism hypothesis, which states that customary law acquires legitimacy from community approval and hence regulates inheritance alongside statutory and constitutional law (Griffiths, 1986; Merry, 1988). The ongoing dependence on customary institutions such as family heads and traditional councils illustrates that, in fact, customary standards frequently wield more power over succession than formal legal regulations.

Constitutional, Judicial, and International Protection of Women's Inheritance Rights

The study discovered that Nigeria has a relatively extensive legislative framework for protecting women's inheritance rights. Constitutional measures forbidding discrimination, judicial rulings invalidating discriminatory customary practices, and Nigeria's international human rights commitments all provide significant legal protection for women. This conclusion supports Worlu (2025) observation that Nigerian courts have gradually increased women's inheritance rights by declaring discriminatory customary practices illegal. Similarly, Anazor et al. (2025) claim that the legal system has become more supportive of gender equality in inheritance.

Despite these legal developments, the study concluded that effective implementation is still restricted. Formal legal recognition has not resulted in equal inheritance outcomes, as customary systems continue to dominate inheritance administration in many communities. This finding is consistent with the human rights-based approach, which underlines that acknowledging rights is insufficient without effective implementation, accountability, access to justice, and institutional enforcement (UN, 2003). As a result, the main problem is to ensure that constitutional and international human rights norms are properly implemented at the community level, rather than a lack of legal protection.

Gap between Legal Protection and Practical Enforcement

The study also discovered a large disparity between legal assurances and the real application of women's inheritance rights. Although constitutional rules and legal rulings explicitly prohibit gender discrimination, customary inheritance practices continue to disfavour women in many communities throughout Southwest Nigeria. This finding is consistent with Okwuadinma and Gasiokwu (2024) observation that discriminatory customary practices frequently endure despite judicial orders rejecting them. Similarly, Umukoro et al. (2024) found that customary land tenure structures continue to limit women's access to property due to firmly held socio-cultural views.

Legal pluralism theory explains this mismatch by showing how statutory and customary legal systems coexist, with customary institutions frequently having more social legitimacy than formal legal institutions (Griffiths, 1986). Feminist legal theory also explains the persistence of discrimination by claiming that legal and social institutions continue to perpetuate patriarchal power relations that favour men in property ownership and succession (MacKinnon, 1989; Smart, 1989). These theoretical approaches support the conclusion that legal improvements alone are insufficient where discriminatory cultural practices are nonetheless widely accepted.

The study verifies Anazor et al.'s (2025) findings that low legal awareness, socioeconomic dependency, limited access to justice, and inadequate enforcement mechanisms continue to impair women's ability to assert their inherited rights. As a result, constitutional protections usually prove useless in practice.

Synthesis of Findings

Overall, the results show a convergence of actual evidence, theoretical frameworks, and current literature. Despite Nigeria's broad constitutional, judicial, and international legal protections for women's inheritance rights, traditional inheritance practices continue to have a significant impact on inheritance outcomes in southwest Nigeria. Existing research (Okaphor et al., 2024; Anazor et al., 2025; Worlu, 2025) concludes that the primary barrier to gender equality in inheritance is not a lack of legal protection, but rather the persistence of patriarchal customary norms, weak institutional enforcement, and low legal awareness.

The three theoretical frameworks together provide a thorough explanation for these observations. Legal pluralism theory explains the coexistence of statutory and customary legal systems; feminist legal theory exposes patriarchal structures that perpetuate gender discrimination; and the human rights-based approach provides normative standards for evaluating the protection of women's rights and the state's obligations. Together, these frameworks show that achieving substantive equality in inheritance necessitates not only legal reform but also stronger institutional enforcement, increased legal awareness, and long-term socio-cultural transformation capable of aligning customary practices with constitutional and international human rights standards.

Conclusion

This study investigated the protection of women's property and inheritance rights under customary law in selected communities in Southwest Nigeria from a human rights standpoint. Based on legal pluralism theory, feminist legal theory, and the human rights-based approach, the study discovered that, despite Nigeria's extensive constitutional, judicial, and international legal framework guaranteeing equality and non-discrimination, customary inheritance practices remain predominantly patrilineal and disadvantage women. Daughters are frequently denied equal inheritance, and widows are typically granted very restricted or conditional access to family assets.

The study also found that the primary difficulty is not a lack of legal protection, but rather a poor application of current legal measures. The continuance of discriminatory inheritance practices is aided by legal pluralism, ingrained patriarchal norms, low legal awareness, socioeconomic reliance, and ineffective institutional enforcement. As a result, a large gap persists between the legal safeguards and the practical exercise of women's inheritance rights in Southwest Nigeria.

The study indicates that achieving substantive gender equality in inheritance requires more than just constitutional provisions and favourable judicial rulings. It calls for stricter enforcement of current laws, more legal awareness, active engagement with customary institutions, and long-term socio-cultural transformation to guarantee that customary inheritance processes adhere to constitutional and international human rights norms.

This study has a few drawbacks. First, it took a socio-legal doctrinal approach, relying heavily on legislative provisions, court decisions, and secondary empirical literature rather than primary field data. As a result, it may not represent all of the diversity in customary inheritance processes that exist within communities. Second, the study was limited to a few villages in Southwest Nigeria; therefore, its findings may not be fully applicable to other geopolitical zones with different customary inheritance systems. Finally, the study did not conduct a quantitative assessment of judicial or constitutional compliance, which limits the ability to estimate the effectiveness of existing legal protections.

Future studies should conduct field-based empirical research with women, traditional rulers, family heads, and legal practitioners to provide more evidence on the practical operation of customary inheritance systems. Comparative research across Nigeria's geopolitical zones might also help to better understand the regional variances in customary inheritance patterns. Further research should look into the efficiency of legal awareness campaigns, court enforcement procedures, and the role of traditional institutions in enforcing constitutional requirements. Furthermore, multidisciplinary research that combines legal, sociological, and anthropological approaches would provide more in-depth insights into how culture, law, and gender interact to shape inheritance outcomes.

Policy Recommendations

Following the study's findings and objectives, the following recommendations are offered:

1. Harmonisation of Customary Law with Constitutional Standards

Traditional rulers, family heads, and customary institutions should play an active role in legislative reform measures to guarantee that customary inheritance processes adhere to constitutional values of equality and non-discrimination. State governments should also put in place suitable monitoring systems to encourage conformity with constitutional and judicial requirements.

2. Improving the enforcement of judicial rulings

Government institutions, the courts, and appropriate enforcement agencies should improve the enforcement of court decisions that invalidate discriminatory traditional inheritance practices. Clear implementation guidelines and effective monitoring methods should be devised to guarantee that constitutional safeguards are put into action at the community level.

3. Increasing legal awareness and access to justice.

Government agencies, legal aid organisations, and civil society organisations should step up public legal education programs, particularly in rural and semi-urban areas, to raise women's understanding of their

inheritance rights and accessible legal remedies. Expanding access to low-cost legal assistance will also encourage women to pursue their rights through appropriate legal channels.

Overall, these ideas aim to strengthen institutional enforcement, raise legal awareness, encourage constitutional conformity among customary institutions, and improve access to justice. Their effective implementation would help to greatly reduce the gap between legal protection and the practical realisation of women's property and inheritance rights in Southwest Nigeria.

Contribution to Knowledge

This work adds to understanding in several key areas. First, it contributes to the discussion of legal diversity by illustrating that, notwithstanding constitutional primacy and progressive judicial decisions, customary institutions continue to be the principal determinants of inheritance practices in many Southwest Nigerian communities. It so provides a better understanding of how plural legal systems work in practice and why constitutional safeguards are not always implemented at the community level.

Second, the study contributes to feminist legal literature by showing that formal legal equality has not resulted in real equality in women's inheritance rights. It demonstrates how entrenched patriarchal attitudes within customary inheritance systems continue to limit women's access to property, despite current legal safeguards.

Third, the study broadens the application of the human rights-based approach by comparing customary inheritance practices to constitutional and international human rights norms. It identifies the continuous gap between Nigeria's legal responsibilities and the practical enforcement of women's inheritance rights, adding to the discussion of how human rights principles are implemented in multiple legal systems.

Finally, the study provides context-specific evidence from selected communities in Southwest Nigeria, identifying institutional, cultural, and legal elements that contribute to ongoing discrimination against women in inheritance disputes. These findings have practical implications for legal reform, policy formulation, and improving enforcement mechanisms targeted at promoting gender equality in customary inheritance practices.

References

- Adewale, O. A. (2023). Customary land tenure and urban property disputes in South-West Nigeria. *Journal of African Legal Studies*, 15(2), 145–167.
- African Union. (1981). *African Charter on Human and Peoples' Rights*. <https://au.int/en/treaties/african-charter-human-and-peoples-rights>
- Anazor, E., Okeke, V. O., & Nwafor, C. (2025). Customary law and women's property rights in Nigeria: Enforcement gaps and human rights implications. *Nigerian Journal of Law and Policy Studies*, 12(1), 45–67.
- Anekwe v. Nweke (2014) LPELR-22697(SC).
- Anzolo, F. E., Danjuma, M., & Suleiman, M. Y. (2025). The rights of females to inherit under Nigerian customary laws: Hostile factors exogenous to customary laws. *International Journal of Comparative Law and Legal Philosophy*, 7(2).
- Bartlett, K. T., & Kennedy, R. (Eds.). (1991). *Feminist legal theory: Readings in law and gender*. Westview Press.

- Benda-Beckmann, F. von. (2002). Who's afraid of legal pluralism? *The Journal of Legal Pluralism and Unofficial Law*, 34(47), 37–82. <https://doi.org/10.1080/07329113.2002.10756563>
- Constitution of the Federal Republic of Nigeria. (1999). *Constitution of the Federal Republic of Nigeria 1999 (as amended)*. Federal Government Printer.
- Crenshaw, K. (1989). Demarginalising the intersection of race and sex: A Black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *University of Chicago Legal Forum*, 1989(1), 139–167.
- Elias, T. O. (1971). *Nigerian land law* (4th ed.). Sweet & Maxwell.
- Fineman, M. A. (2004). *The autonomy myth: A theory of dependency*. The New Press.
- Griffiths, J. (1986). What is legal pluralism? *The Journal of Legal Pluralism and Unofficial Law*, 18(24), 1–55. <https://doi.org/10.1080/07329113.1986.10756387>
- Hooker, M. B. (1975). *Legal pluralism: An introduction to colonial and neo-colonial laws*. Oxford University Press. <https://journals.unizik.edu.ng/index.php/jcpl/article/view/4703>
- MacKinnon, C. A. (1989). *Toward a feminist theory of the state*. Harvard University Press.
- Matrimonial Causes Act, Cap. M7, Laws of the Federation of Nigeria. (2004).
- Merry, S. E. (1988). Legal pluralism. *Law & Society Review*, 22(5), 869–896. <https://doi.org/10.2307/3053638>
- Mojekwu v. Mojekwu (1997) 7 NWLR (Pt. 512) 283.
- Moronkeji, A. (2023). *Gender inequality and inheritance rights under customary law in Nigeria* (SSRN Working Paper). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5144855
- Nigeria. (1999). *Constitution of the Federal Republic of Nigeria 1999 (as amended)*. Federal Government Printer.
- Nwauche, E. S. (2005). The constitutional challenge of integration and interaction of customary and received English common law in Nigeria and Ghana. *Tulane European and Civil Law Forum*, 20, 91–126.
- Nwogugu, E. I. (2014). *Family law in Nigeria* (3rd ed.). HEBN Publishers.
- Office of the United Nations High Commissioner for Human Rights. (2006). *Frequently asked questions on a human rights-based approach to development cooperation*. United Nations.
- Ogun State Government. (2015). *Administration of Estates Law of Ogun State*. Ogun State Government.
- Okaphor, J., Eze, M., & Akinola, T. (2024). Patrilineal inheritance systems and women's exclusion from property rights in Southern Nigeria. *Journal of Comparative Law and Practice*, 9(2), 88–106.
- Okwuadinma, N., & Gasiokwu, M. (2024). Female succession and inheritance under native laws and customs in Nigeria: An affront to justice. *Global Journal of Politics and Law Research*, 12(6), 112–129. <https://ejournals.org/gjplr/vol12-issue-6-2024/the-right-to-female-succession-inheritance-under-native-laws-and-customs-in-nigeria-an-affront-to-justice/>
- Ondo State Government. (2009). *Laws of Ondo State of Nigeria: In force as at 31st December 2006* (Vols. 1–3). Ondo State Government.
- Smart, C. (1989). *Feminism and the power of law*. Routledge.

- Smart, C. (1995). *Law, crime and sexuality: Essays in feminism*. Sage Publications.
- Ukeje v. Ukeje (2014) 11 NWLR (Pt. 1418) 384 (SC).
- Umukoro, B. E., et al. (2024). [Complete bibliographic details should be inserted from the original source used in your study.]
- Umukoro, B., Adebayo, K., & Salami, R. (2024). *Customary land ownership and women's land rights in Nigeria: Extending the frontiers of feminist environmental justice*. ResearchGate. https://www.researchgate.net/publication/387922557_Customary_Land_Ownership_and_Women%27s_Land_Rights_in_Nigeria_Extending_the_Frontiers_of_Feminist_Environmental_Justice
- United Nations Development Programme. (2006). *Applying a human rights-based approach to development cooperation and programming: A UNDP capacity development resource*. United Nations Development Programme.
- United Nations. (1948). *Universal Declaration of Human Rights*. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>
- United Nations. (1979). *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*. <https://www.un.org/womenwatch/daw/cedaw/>
- United Nations. (2003). *The human rights-based approach to development cooperation: Towards a common understanding among UN agencies*. United Nations Development Group.
- Worlu, J. (2025). Judicial intervention and women's inheritance rights in Nigeria: Bridging the gap between law and practice. *Journal of Public and Private Law*, 11(3), 201–223. <https://rsupljournal.com.ng/journal/index.php/jppl/article/view/106>
- Worlu, S. C. (2026). Challenges and prospects of the legal development of the inheritance rights of women in South-East Nigeria. *Journal of Private and Property Law*, 24(2).
- Worlu, S. C. (2026). Developments in the inheritance rights of women in South-East Nigeria. *Journal of Private and Property Law*, 24(1).
- Worlu, S. C. (2026). Developments in the inheritance rights of women in South-East Nigeria. *Journal of Private and Property Law*, 24(1).