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CODIFYING YORUBA CUSTOMARY INHERITANCE: A LEGISLATIVE FRAMEWORK FOR INSTITUTIONAL REFORM, LAND GOVERNANCE, AND SUSTAINABLE DEVELOPMENT IN NIGERIA

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Abstract

Through unwritten rules enforced by family elders and customary institutions, Yoruba customary inheritance has traditionally governed succession of family property. Despite the fact that this system has maintained family unity and communal identity for many generations, serious governance flaws have been revealed by fast urbanisation, shifting socioeconomic circumstances, constitutional changes, and growing land commercialisation. These include protracted inheritance conflicts, dishonest land deals, discrimination based on gender, inadequate responsibility in family management, unstable land tenure, and evidentiary difficulties brought on by a dependence on oral tradition. The Yoruba Customary Inheritance Bill 2026 is a proposed legislative framework that addresses the institutional shortcomings of Yoruba customary inheritance. The study synthesises information from current literature, court rulings, policy papers, and comparative experiences from specific African countries using a qualitative doctrinal and comparative research design. The study, which is based on institutional theory, makes the case that effective reform should enhance rather than replace customary institutions by establishing clear governance structures, statutory recognition of inheritance procedures, protection of women's and widows' rights, better family property documentation,

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and effective dispute resolution procedures. In order to increase legal certainty and support sustainable land administration, the Draft Bill also suggests digital recording of family inheritance records, preservation of oral histories, and increased accountability of family heads. According to the study's findings, codification offers a chance to maintain the cultural underpinnings of Yoruba customary inheritance while bringing them into compliance with modern governance norms, constitutional principles, and sustainable development goals. In order to create a unified framework for the administration of customary inheritance that is socially inclusive, legally certain, and culturally acceptable, it suggests that the six southwestern states take concerted legislative action.

Introduction

From the Mango Tree to the Statute Book

The Yoruba people of southwest Nigeria used customary systems based on kinship, community duty, and reverence for ancestral customs to manage inheritance for generations. While inheritance was typically arranged in accordance with the Ori-O-Jori principle, which divided family property among each wife's descendants while maintaining collective ownership, succession to family land, residential compounds, and other lineage property was managed by family elders under the direction of the Olórí Ẹbí (family head) (Olaoba, 2005; Omotola, 2006).

These traditional agreements relied on oral tradition, collective memory, and the authority of elders and were mostly unwritten. The system worked well as a means of protecting family property, upholding social cohesiveness, and settling conflicts in rather stable communities where family members lived close to one another and customary standards were generally understood. However, there have been significant changes to the social and economic circumstances that supported this old structure. The traditional institutions in charge of managing inheritance have been undermined by rapid urbanisation, population expansion, rising land values, migration, formal education, and shifting family arrangements.

Oral agreements and unrecorded family decisions have grown more challenging to confirm as extended families spread geographically and younger generations lose familiarity with customs. As a result, family property ownership, succession, and management issues have increased, especially in urban and peri-urban areas where land values have significantly increased (Akinleye & Adejumo, 2022; Akintunde-Alo & Ige, 2023). Because customary law coexists with statutory law, common law, and constitutional laws, Nigeria's multiple legal systems make inheritance administration even more difficult.

Customary succession is still primarily governed by informal family institutions with little statutory guidance, despite the Federal Republic of Nigeria's Constitution guaranteeing

equality before the law and Nigerian courts increasingly invalidating discriminatory inheritance practices (Constitution of the Federal Republic of Nigeria, 1999, as amended; Ukeje v. Ukeje (2014) LPELR-22724(SC)). When unwritten customs clash with constitutional principles or modern property transactions, the coexistence of different legal systems often leads to ambiguity. As a result, one of the biggest issues facing Yoruba customary inheritance is the management of family property.

Family land is traditionally not seen as an asset owned solely by people but rather as common property kept in trust for both current and future generations (Omotola, 2006). Although this arrangement has historically protected family wealth and guaranteed intergenerational continuity, there are now more opportunities for unauthorized sales, competing ownership claims, exclusion of legitimate beneficiaries, and protracted litigation due to inadequate documentation, unclear governance procedures, and broad discretionary powers exercised by some family heads. Tenure security, investment, and the efficient use of land resources are all compromised by such governance flaws (Besley, 1995; Deininger & Feder, 2009; Lawry et al., 2017).

The ramifications go beyond family conflicts to include more general issues of environmental sustainability and economic growth. It is commonly acknowledged that investment, finance availability, effective land markets, and sustainable resource management all depend on secure property rights. On the other hand, insecure inheritance arrangements limit the contribution of valued assets to economic growth and leave them underutilized (De Soto, 2000; Deininger & Feder, 2009). However, inefficient land use and environmental degradation are also caused by fragmented ownership and poorly regulated land transactions, especially in regions that are rapidly urbanising (Lambin et al., 2001; Robinson et al., 2014; Food and Agriculture Organisation of the United Nations [FAO], 2024).

This article makes the case that Yoruba traditional inheritance should be systematically codified under a thorough legislative framework rather than being abolished. It suggests a Yoruba Customary Inheritance Bill 2026 that maintains the cultural underpinnings of Ori-O-Jori while introducing explicit procedural rules, accountability mechanisms, documentary requirements, and constitutional safeguards. It does this by drawing on the concepts of legal pluralism and comparative African experiences. A framework like this aims to safeguard vulnerable beneficiaries, lessen inheritance disputes, harmonise customary law with contemporary governance requirements, and increase the contribution of customary land tenure to sustainable development.

Theoretical Framework: Legal Pluralism Theory

Legal pluralism theory, which offers the best analytical framework for analyzing the relationship between Yoruba customary inheritance practices and Nigeria's statutory

legal system, serves as the foundation for this study. According to Griffiths (1986), legal pluralism is the coexistence of several legal orders in the same political and social setting, where social connections are concurrently governed by state law, customary law, religion law, and informal normative systems. Legal pluralism acknowledges that customary institutions continue to impact community behavior even in the presence of statutory law, in contrast to legal centralism, which holds that only state-made legislation has legal authority. Despite the growth of official legal institutions, customary law continues to be the principal means of governing inheritance, family relationships, and property ownership in many African communities, including Nigeria (Tamanaha, 2008).

This legal plurality is exemplified by Nigeria's inheritance system. The Federal Republic of Nigeria's Constitution, statutes, court rulings, and customary law all work together to govern property rights and succession. Many Yoruba households still manage inheritance through customary institutions run by the Olórí Ẹbí and governed by long-standing cultural values, despite constitutional laws that guarantee equality and forbid discriminatory practices (Olaoba, 2005; Omotola, 2006). When customs clash with constitutional protections, court rulings, or contemporary land administration techniques, this coexistence frequently results in legal ambiguity. As a result, the lines between customary authority and legislative regulation are still not clearly defined, which frequently leads to disputes about succession, inheritance rights, and family land.

According to legal pluralism theory, successful legal reform should harmonize customary law with modern governance norms and constitutional principles rather than attempting to destroy it (Tamanaha, 2008). In a similar vein, Woodman (1996) argues that codification can increase accountability, openness, and legal certainty while maintaining the legitimacy of customary institutions. This viewpoint is especially pertinent to the current study because the proposed Yoruba Customary Inheritance Bill 2026 modernizes the administration of the Ori-O-Jori inheritance system through written procedures, institutional accountability, protection of the inheritance rights of women and widows, and more transparent dispute resolution procedures.

In order to provide legal certainty, social justice, and sustainable land governance within modern Yoruba culture, legal pluralism theory offers a strong conceptual basis for analyzing how customary inheritance might be changed without compromising its cultural legitimacy.

Methodology: From Evidence to Legislative Proposal

In order to ensure that the proposed legislative framework reflects both customary practices and constitutional standards, the Yoruba Customary Inheritance Bill 2026 was developed using a doctrinal and qualitative policy research design that integrates legal analysis, comparative jurisprudence, and stakeholder-informed policy formulation. This

approach was chosen because customary inheritance reform necessitates an understanding of the social, cultural, and institutional realities that shape the administration of family property in contemporary Yoruba communities (Creswell & Creswell, 2023; Braun & Clarke, 2022).

A thorough analysis of primary and secondary legal texts was the initial step in the technique. The Federal Republic of Nigeria's Constitution, pertinent court rulings on customary succession, laws governing land administration, and customary law precepts concerning family property were among the primary sources. Peer-reviewed journal papers, books, policy studies, and government publications about customary inheritance, land tenure governance, gender equality, legal pluralism, and sustainable development in Nigeria and other African countries made up secondary sources. Recent research on the relationship between constitutional rights and customary law, as well as the effects of unstable land tenure on economic growth and environmental sustainability, received special attention (Adeleke & Diala, 2024; Lawry et al., 2017).

Comparative legal analysis was the second step. To find legislative approaches that effectively balance statutory control with customary law, experiences from a few African nations were analyzed. Kenya's Law of Succession Act, Tanzania's Customary Law Declaration Order, and Ghana's reforms pertaining to customary family property and family head responsibility were the main subjects of the review. These jurisdictions show that codification does not have to eliminate customary law; rather, it can preserve indigenous legal traditions while enhancing transparency, defining institutional roles, and bolstering legal certainty (Woodman, 1996; Deininger & Feder, 2009). The design of the institutional safeguards suggested in this study was influenced by lessons learned from these comparative experiences.

Stakeholder participation through consultations documented in current empirical studies and policy discussions on customary inheritance reform made up the third component. To find recurrent governance issues influencing inheritance administration, the opinions of traditional rulers, family heads (Olórí Ẹbí), lawyers, women's organisations, community leaders, academics, and public officials were analyzed. These viewpoints were synthesised and common concerns about fraudulent land transactions, exclusion of vulnerable beneficiaries, inadequate documentation of customary rights, protracted litigation, and institutional accountability were identified using thematic analysis (Braun & Clarke, 2021). These conclusions guided the creation of a legal framework meant to strike a compromise between cultural validity and modern governance demands.

The proposed Bill's legitimacy is strengthened by the incorporation of stakeholder-informed policy formulation, comparative legal research, and doctrinal analysis. The study aims to create a reform model that is culturally appropriate, constitutionally compliant, administratively feasible, and capable of strengthening customary inheritance

governance within the Yoruba socio-legal context by basing legislative recommendations on both legal scholarship and practical experience.

Why Previous Reforms Have Produced Limited Results

Yoruba customary inheritance disputes are becoming more frequent despite multiple legislative and judicial interventions. Reforms that have already been implemented have typically focused on specific facets of land administration without addressing the larger governance frameworks that are used to manage customary inheritance. As a result, many of the institutional flaws that lead to conflicts are still unaddressed.

One drawback is that anti-land-grabbing laws have a narrow emphasis. A number of states in the Southwest have passed legislation aimed at preventing illegal land possession and criminal activity related to land transactions. Although the criminal penalties for land grabbers have been enhanced by these regulations, they seldom address the internal governance issues within families that frequently result in conflicts over beneficial ownership, contradictory sales, and unauthorized transfers. The lack of clear processes governing the management or transfer of family land is frequently the root of conflict rather than outside intrusion (Akinleye & Adejumo, 2022).

A second restriction has to do with using wills for succession planning. In many customary communities, where inheritance is still seen as a collective family duty rather than an individual choice, formal will preparation is still relatively uncommon, despite the fact that statutory testamentary succession offers a crucial mechanism for property distribution. Therefore, the significant percentage of estates that continue to descend under customary law cannot be sufficiently regulated by legislative reforms based solely on testamentary succession (Omotola, 2006).

The relationship between official judicial institutions and customary law presents another difficulty. Nigerian courts are increasingly applying constitutional principles to issues involving traditional inheritance, especially when those cases involve discrimination against women and children. However, unwritten customs, contradicting oral evidence, and the lack of trustworthy records pertaining to family property sometimes provide judges with evidentiary challenges. Clearer statutory direction for customary inheritance administration is necessary since these difficulties lead to protracted litigation and inconsistent judicial rulings (Adeleke & Diala, 2024).

These drawbacks show that future reforms should go beyond discrete legal actions in favor of an all-encompassing legislative framework that can control family governance, accountability, documentation, dispute resolution, and the safeguarding of vulnerable beneficiaries within the customary inheritance system.

Proposed Framework for the Yoruba Customary Inheritance Bill 2026

The goal of the proposed Yoruba Customary Inheritance Bill 2026 is to harmonize Yoruba customary succession with modern land governance, constitutional principles, and sustainable development goals. The Bill aims to maintain the cultural underpinnings of customary inheritance while bringing institutional accountability, procedural certainty, and legal protections.

There are seven interconnected parts to the proposed legislation. The Olórí Ẹbí, family land, beneficiaries, and customary inheritance procedures are only a few of the important customary institutions that it defines statutorily and establishes guiding principles for. Second, it establishes accountability mechanisms for the management of communal property, defines fiduciary responsibilities, mandates regular family meetings, and specifies transparent processes for the nomination of family leaders in order to set governance standards for family administration.

Thirdly, through institutional arrangements that allow collective ownership while promoting investment and sustainable economic utilization, the Bill encourages responsible management of family land. Fourth, by acknowledging the inheritance rights of daughters, widows, and other vulnerable beneficiaries in compliance with recent court rulings and international human rights norms, it embraces constitutional guarantees of equality (Adeleke & Diala, 2024).

By allowing verified oral histories, recorded family meetings, genealogies, and other customary records to supplement documentary evidence in inheritance processes, the proposed legislation further acknowledges the evidential value of oral traditions. In order to lessen the loss of traditional knowledge across generations, it also suggests digital preservation of family history through community-based archive procedures.

Lastly, the Bill suggests specialised methods for resolving inheritance disputes, such as required estate paperwork, mediation, accelerated legal proceedings, and environmental protections for communal areas and family woods that are culturally significant. Together, these clauses aim to lessen litigation, improve tenure security, bolster accountability, safeguard constitutional rights, and maintain Yoruba traditional inheritance as a dynamic institution that can adapt to modern social and economic circumstances.

Projected Socio-Economic Impacts, Discussion, and Implementation Roadmap

If successfully implemented throughout the six southwestern states of Nigeria, the planned Yoruba Customary Inheritance Bill 2026 is anticipated to produce substantial legal, economic, and social benefits. These forecasts are based on a synthesis of empirical research on land tenure governance, customary inheritance, and comparative legislative reforms in Africa, including Kenya's experience after the Law of Succession Act was

passed, as well as more general data on institutional reform and secure property rights (De Soto, 2000; Deininger & Feder, 2009; Lawry et al., 2017). The expected results show the likely direction and scope of reforms in conditions of successful implementation rather than being exact projections.

It is anticipated that better family land governance will bolster tenure security and boost public trust in traditional land transactions. Fraudulent land sales, competing ownership claims, and protracted succession disputes are likely to decrease with clear procedures for appointing and controlling the Olórí Ẹbí, mandated documenting of family decisions, and improved accountability systems. Increased chances for investment, agricultural growth, and formal credit may result from financial institutions recognizing correctly recorded family land as more dependable collateral due to increased legal certainty (Besley, 1995; Deininger & Feder, 2009).

Through specialized inheritance procedures, alternative dispute resolution methods, and more precise evidentiary standards, the Bill is also anticipated to enhance access to justice. These changes might significantly shorten the time it takes to decide cases involving customary inheritance and save families money on litigation. The suggested acknowledgment of verified oral histories, genealogies, and recorded family meetings as supplementary types of evidence is as significant. Such actions will lessen the evidentiary difficulties commonly found in situations involving customary succession while preserving important indigenous knowledge (Olaoba, 2005).

From a human rights standpoint, the proposed legislation strengthens daughters' and widows' inheritance rights, upholding constitutional principles of equality. Although discriminatory customs have already been declared unlawful by recent court rulings, their application is still uneven in many groups (Adeleke & Diala, 2024). Therefore, the proposed statutory structure offers more transparent institutional channels for incorporating constitutional ideas into routine customs.

It has been questioned if Yoruba cultural traditions could be threatened by codification. However, the proposed Bill aims to maintain the fundamentals of customary inheritance while modernising its administration rather than outlawing it. Codification can strengthen customary institutions by enhancing legal clarity, openness, and public confidence without undermining cultural identity, as demonstrated by similar changes in other African jurisdictions (Woodman, 1996).

Three stages of implementation should be carried out gradually. The first stage should be the creation of supporting rules and the adoption of legislation by the six southwestern states' Houses of Assembly. The training of traditional leaders, family heads, judges, attorneys, and land managers should be the main focus of the second phase. In order to improve compliance, bolster customary governance, and advance the long-term

sustainability of Yoruba customary inheritance, the last phase should create digital inheritance registries, documentation systems, and public awareness campaigns.

Conclusion and Policy Recommendations

For generations, Yoruba customary inheritance has been an essential institution for maintaining communal identity, controlling succession, and protecting family property. However, serious flaws in the conventional administration of inheritance have been revealed by the growing complexity of modern society, which is marked by fast urbanization, land commercialization, constitutional changes, and evolving family arrangements. Fraudulent property transactions, protracted litigation, poor documentation, the exclusion of women and widows, and dwindling trust in customary governance are some of these flaws. Therefore, if customary inheritance is to continue to be applicable and useful in the twenty-first century, institutional reform is necessary.

This study has shown that piecemeal legal actions are insufficient to effectively resolve these issues. Instead, they need a comprehensive legislative framework that can reconcile Yoruba customary inheritance with modern land administration, constitutional principles, and sustainable development goals. By maintaining the cultural underpinnings of the Ori-O-Jori inheritance system and adding transparent governance structures, accountability mechanisms, protection for vulnerable beneficiaries, dependable documentation procedures, and easily accessible dispute resolution processes, the proposed Yoruba Customary Inheritance Bill 2026 offers such a framework.

A number of policy initiatives are suggested to enable successful implementation. First, a harmonised model legislation on Yoruba customary inheritance should be developed by the governments of Oyo, Ogun, Osun, Ondo, Ekiti, and Lagos States, with restricted modifications to account for regional customary variances. Second, to increase openness and decrease fraudulent transactions, State Ministries of Justice and Ministries in charge of land administration should create thorough digital registers for family land, recognized family heads (Olórí Ẹbí), and customary inheritance records. Third, to raise awareness of inheritance rights and obligations under the proposed legislation, ongoing public education initiatives should be carried out in cooperation with traditional rulers, community leaders, religious institutions, civil society organisations, and the Nigerian Bar Association.

Judges, customary court officials, attorneys, land administrators, and traditional leaders should also receive specialised training on how to interpret and apply the new legal framework. To lessen litigation and maintain family ties, alternative conflict resolution procedures like mediation and conventional arbitration should be reinforced. Lastly, as customs and socioeconomic conditions continue to change, governments should set up monitoring and evaluation procedures to periodically review the efficacy of the legislation, identify implementation issues, and adopt required adjustments.

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In the end, allowing tradition to develop responsibly is more important for the sustainability of Yoruba customary legacy than maintaining it in its original form. In addition to fostering legal certainty, gender fairness, economic productivity, and sustainable land governance, a well-crafted legal framework can protect the cultural values of customary inheritance. The proposed Bill provides a workable solution for protecting Yoruba family property and bolstering indigenous institutions for current and future generations by converting well-established customary rules into an open and accountable legal system.

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