

**AN APPRAISAL ON THE LAW OF WILLS AND SUCCESSION UNDER THE
NIGERIAN LEGAL SYSTEM**

BY

ACHOR CONFIDENCE IFUNANYA

(2020/LW/20888)

**A PROJECT PRESENTED TO THE FACULTY OF LAW,
ALEX EKWUEME FEDERAL UNIVERSITY, NDUFU-ALIKE, IKWO, EBONYI
STATE
IN PARTIAL FULFILMENT OF THE REQUIREMENT FOR THE AWARD OF THE
DEGREE OF BACHERLOR OF LAWS**

SUPERVISOR

DR CALISTUS C. ITUMA

SEPTEMBER 2025.

**AN APPRAISAL ON THE LAW OF WILLS AND SUCCESSION UNDER THE
NIGERIAN LEGAL SYSTEM**

BY
ACHOR CONFIDENCE IFUNANYA
(2020/LW/20888)

SUPERVISOR
DR CALISTUS C, ITUMA

DECLARATION

I, Achor confidence Ifunanya, a Student of the Faculty of Law, Alex Ekwueme Federal University, Ndufu-Alike, Ikwo, Ebonyi State, do hereby declare on my honor, that this project has not been previously presented, either wholly or in part for the award of any other Degree, Diploma, Certificate or Publication in any University, other Higher Institutions or elsewhere.

Signed.....

Achor confidence Ifunanya

(2020/LW/2088)

DEDICATION

This work is dedicated to God Almighty and to my mother Mrs Oke Uzoamaka Elom

ACKNOWLEDGMENTS

First and foremost, I offer my profound gratitude to God Almighty for His divine guidance, strength, and grace throughout my academic journey. My sincerest thanks go to my project supervisor, Dr C.C. ITUMA, whose guidance and mentorship were crucial to the completion of this project.

I extend my deepest appreciation to the esteemed faculty and staff of the Faculty of Law, particularly to the Dean, Prof. Eseni Azu Udu, the Head of Department, and my Project Coordinator, Dr. Kelechi Onyegbule, for their invaluable support. My sincerest thanks also go to my Lecturers Dr. C. C. Ituma, Dr Onyekachi Eni, Barr Nnaemeka Nweze, Dr Amadi, Barr Olebara paschal, Dr O T Eze, Barr Emeka Chukwudifo, Barr Ekechi Agwu, Barr Anoke, Barr Gabriel Awoke, Barr Nwambam whose guidance and mentorship were crucial to the completion of my study.

I am immensely grateful to my dear friend, Okibe Emmanuel, whose timeless support and assistance from my first year to my final year were instrumental in my academic pursuits. His help was truly a lifeline.

I would also like to acknowledge my foster parents, Barr. and Dr. (Mrs.) Celestine Igberi, for their guidance and unwavering support. My gratitude also goes to Rev. Moses Elem, Engr. Ochere Festus, Ochere Stella, Engr Igberi Chukwuebuka, Mr. and Dr. (Mrs.) Ugonna Nwode, and Mr. Nchonu Theodore, for their continuous advice, emotional support, and financial contributions throughout my studies.

A special and heartfelt thank you to Mrs. Achor Evelyn and Mrs. Oke Uzoamaka Elom, who single-handedly sponsored my education, seeing me through to its successful completion. Your generosity and sacrifice will forever be cherished.

Finally, I want to express my gratitude to Dr. Mathew Anuma, who made it possible for me to register for my JAMB examination and begin this journey.

TABLE OF CONTENTS

Title Page	i
Declaration	ii
Certification	iii
Dedication	iv
Acknowledgements	v
Table of Contents	vi
Table of Cases	ix
Lists of Statutes	x
Lists of Abbreviations	xi
Abstract	xii
CHAPTER ONE: INTRODUCTION	
1	
1.1 Background to the Study	1
1.2 Statement of the Problem	3
1.3 Aim and Objectives of the Study	5
1.4 Scope and Limitations of the Study	6
1.5 Significance of the Study	6
1.6 Research Methodology	8
1.7 Chapter Analysis	9
CHAPTER TWO: CONCEPTUAL CLARIFICATIONS, THEORETICAL FOUNDATION AND LITERATURE REVIEW	11
2.1 Conceptual Clarification	11
2.1.1 Defining Wills and Succession	11
2.1.2 Understanding Testamentary Freedom	13
2.1.3 The Concept of Estate Administration	15
2.1.4 Types of Wills: A Classification	16
2.1.4.1 Formal Written Wills	17
2.1.4.2 Oral Wills	17
2.1.4.3 Holographic Wills	18
2.1.4.4 Privileged Wills	18
2.1.4.5 Joint Wills	19
2.1.4.6 Mutual Wills	19
2.1.5 Key Concepts in Succession Law	20
2.2 Theoretical Foundation	22
2.2.1 Social Justice Theory	22

2.2.2 Economic Theory of Property Rights	25
2.3 Literature Review	28
2.4 Summary of literature	
CHAPTER THREE: LEGAL AND INSTITUTIONAL FRAMEWORK FOR THE REGULATION AND ADMINISTRATION OF WILLS AND SUCCESSION UNDER THE NIGERIAN LEGAL SYSTEM	35
3.1 Legal Framework	35
3.1.1 National Legal Framework	35
3.1.1.1 Wills Act 1837	35
3.1.1.2 Administration of Estates Law of the western region 1959	37
3.1.1.3 Probate Act 1925	38
3.1.1.4 Marriage Act 2004	39
3.1.1.5 Wills Laws of Lagos State (2003)	41
3.1.2 International Legal Framework	42
3.1.2.1 African Charter on Human and Peoples' Rights 1981	42
3.1.2.2 Universal Declaration of Human Rights 1948	44
3.1.2.3 International Covenant on Civil and Political Rights 1966	45
3.1.2.4 Convention on the Elimination of All Forms of Discrimination Against Women 1979	45
3.2 Institutional Framework	46
3.2.1 Federal High Court	47
3.2.2 Supreme Court of Nigeria	48
3.2.3 National Human Rights Commission (NHRC)	50
CHAPTER FOUR: ANALYSIS OF LEGAL FLAWS IN WILL LEGISLATION IN NIGERIA	53
4.1 The Legal Challenges of Jurisdiction in Wills in Nigeria	53
4.1.1 Conflicts Between Statutory and Customary Laws	54
4.1.2 Jurisdictional Overlaps Between Different Courts	55
4.1.3 Interstate and Territorial Jurisdictional Issues	56
4.1.4 Challenges in the Application of Islamic Law in Succession	57
4.2 Cultural Barriers to Succession Laws in Nigeria	58
4.2.1 Resistance to Formal Wills	59
4.2.2 Gender-Based Inheritance Restrictions	60
4.2.3 Communal Land Tenure Systems	61
4.2.4 Religious Influences on Succession	62
4.3 Assessing the Efficacy of the Wills Act and the Administration of Estates Law	63
4.4 The Legal Conundrum to Rights of Beneficiaries and Heirs	65
4.4.1 Ambiguities in Beneficiary Recognition	66
4.4.2 Delays in Probate Administration	67

4.4.3 Discriminatory Customary Practices	68
4.4.4 Conflicts in Interfaith Succession	69

CHAPTER FIVE: SUMMARY OF FININGS, CONCLUSION AND RECOMMENDATIONS

5.1 Summary of findings	71
5.2 Recommendations	72
5.3 Contributions to Knowledge	73
5.4 Areas for Further Studies	74
5.5 Conclusion	76

BIBLIOGRAPHY

TABLE OF CASES

Case Name	Citation	Page Number(s)
Ademola v. Sodipo	(1992) 7 NWLR (Pt. 253) 251	67
Ajadi v. Olanrewaju	(1969) 1 All NLR 382	62
Amachree v. Amachree	(2000) 10 NWLR (Pt. 675) 338	63
Amankra v. Amankra	(2006) 2 NWLR (Pt. 963) 373	42, 49, 52
Anekwe v. Nweke	(2014) 9 NWLR (Pt. 1412) 393	60
Asika v. Atuanya	(2008) 17 NWLR (Pt. 1117) 701	60
Banks v. Goodfellow	(1870) LR 5 QB 549	32
Bello v. Bello	(1992) 7 NWLR (Pt. 252) 341	64
Bhojwani v. Bhojwani	(1996) 6 NWLR (Pt. 457) 661	40, 47, 50
Ezeanah v. Atta	(2004) LPELR-1198 (SC)	39, 47, 49
Idehen v. Idehen	(1991) 6 NWLR (Pt. 198) 382	28, 36, 41, 49, 54
Lawal v. Younan	(1961) All NLR 245	69
Mojekwu v. Ejikeme	(2000) 5 NWLR (Pt. 657) 402	68
Mojekwu v. Mojekwu	[1997] 7 NWLR (Pt. 512) 283	43, 44, 54
Nezianya v. Okagbue	(1963) 1 All NLR 352	55
Nzekwu v. Nzekwu	(1989) 2 NWLR (Pt. 104) 373	68
Oghoyone v. Oghoyone	(2010) 3 NWLR (Pt. 1182)	39
Ogiamien v. Ogiamien	(1967) NMLR 245	61
Oke v. Oke	(1974) 3 SC 1	14, 37, 41
Okeke v. Okeke	(2003) 15 NWLR (Pt. 842) 25	64
Okonkwo v. Okonkwo	(2010) 14 NWLR (Pt. 1213) 228	59
Olovu v. Olovu	(1985) 3 NWLR (Pt. 13) 372	66
Obusez v. Obusez	(2007) 10 NWLR (Pt. 1043) 430	56, 57
Sarki v. Sarki	(2021) 12 NWLR (Pt. 1789) 234	55
Ukeje v. Ukeje	[2014] 11 NWLR (Pt. 1418) 384	45, 46
Yinusa v. Adesubokun	(1968) NMLR 97	57

LIST OF STATUTES

Statute Name	Jurisdiction	Page Number(s)
Administration of Estates Law 1959	Nigeria	1, 3, 5, 37, 38, 45
Administration of Estates Law of Lagos State, 2015	Lagos State, NG	40
African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap A9, LFN 2004	Nigeria	42
Constitution of the Federal Republic of Nigeria 1999 (as amended)	Nigeria	42, 47, 48, 49, 50, 53, 56, 58, 60, 63, 65, 68, 69
Convention on the Elimination of All Forms of Discrimination Against Women 1979 (CEDAW)	International	45, 46
Federal High Court Act, Cap F12, LFN 2004	Nigeria	47, 48
International Covenant on Civil and Political Rights 1966 (ICCPR)	International	45
Land Use Act of 1978	Nigeria	32
Marriage Act 2004 (Cap M6, LFN 2004)	Nigeria	35, 39, 40, 47, 48, 49, 50
Matrimonial Causes Act, Cap M7, LFN 2004	Nigeria	39
National Human Rights Commission (Amendment) Act 2010	Nigeria	50, 51
Probate Act 1925	Nigeria	35, 38
Universal Declaration of Human Rights 1948 (UDHR)	International	44
Violence Against Persons (Prohibition) Act 2015	Nigeria	40, 51
Wills Act 1837	England (Applied in NG)	1, 12, 13, 16, 17, 18, 20, 35, 36, 41, 53, 54, 56, 58, 63, 65, 66
Wills Law 1959	Nigeria	1, 3
Wills Law of Lagos State 2003 (Cap W2, Laws of Lagos State)	Lagos State, NG	41, 42, 47, 51

LIST OF ABBREVIATIONS

Abbreviation	Full Meaning / Expansion	Page Number(s)
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women	45, 46, 83
ICCPR	International Covenant on Civil and Political Rights	45
LFN	Laws of the Federation of Nigeria	39, 40, 47, 48
NHRC	National Human Rights Commission	46, 50, 51
NG	Nigeria (used in tables for jurisdiction clarity)	-
Pt.	Part (used in law report citations, e.g., Pt. 198)	<i>Various (see cases table)</i>
SC	Supreme Court (Nigeria)	14, 37, 41, 49
UDHR	Universal Declaration of Human Rights	44

ABSTRACT

The law of wills and succession is a fundamental aspect of the Nigerian legal system, governing the distribution of property upon an individual's death. Despite its importance, the current framework has been criticized for being outdated, ambiguous, and often leading to conflicts and disputes. This study aims to appraise the law of wills and succession in Nigeria, identifying gaps and challenges in the existing legislation. A critical examination of the Nigerian legal framework reveals inconsistencies and inadequacies, particularly with regards to testamentary capacity, undue influence, and the rights of beneficiaries. Using a qualitative research methodology, this study analyzes relevant statutes, case law, and academic literature to provide a comprehensive understanding of the subject matter. Key findings highlight the need for reform and modernization of the law to reflect contemporary societal values and address the complexities of modern estate planning. This research concludes that a comprehensive review of the law of wills and succession is necessary to ensure clarity, consistency, and fairness in the administration of estates. Recommendations are made for legislative reforms, including the adoption of clear guidelines for testamentary capacity and the protection of vulnerable beneficiaries. Ultimately, this study contributes to the ongoing debate on the reform of the law of wills and succession in Nigeria, providing valuable insights for policymakers, practitioners, and academics seeking to improve the efficiency and effectiveness of the Nigerian legal system.

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

The concept of wills and succession is a ubiquitous aspect of human society, transcending cultural, geographical, and temporal boundaries. In Nigeria, the law of wills and succession has undergone significant transformations, shaped by the country's complex history, cultural diversity, and colonial legacy. Prior to the advent of British colonial rule, Nigeria's indigenous communities had their own traditional systems of inheritance and succession, which were often predicated on customary laws and practices¹. These customary laws varied from one ethnic group to another, reflecting the diversity of Nigerian cultures. However, with the imposition of British colonial rule, the English law of wills and succession was introduced, which significantly altered the existing customary laws and practices.

The Nigerian legal system is a labyrinthine construct, comprising a complex interplay of customary, Islamic, and common law principles. The Receipt of Wills Act 1838 and the Wills Act 1837, both of English origin, were initially applicable in Nigeria. However, with the country's independence in 1960, there was a pressing need to develop a distinct Nigerian law of wills and succession. In response to this imperative, the Wills Law 1959 and the Administration of Estates Law 1959 were enacted, providing a framework for the devolution of estates in Nigeria². Despite these legislative efforts, the law of wills and succession in Nigeria remains beset by several

¹ Martin Chukwunweike Okany, *The Law of Succession in Nigeria* (Malthouse Press, 2017) 64-66.

² Taslim Olawale Elias, *Nigerian Land Law* (Routledge, 1972) 37-59.

challenges, including the conflict between customary and statutory laws, which often leads to disputes and litigation. For instance, the Wills Law 1959 has been criticized for its failure to recognize the rights of customary heirs, leading to conflicts between customary and statutory laws³.

One of the perennial challenges confronting the law of wills and succession in Nigeria is the dichotomy between customary and statutory laws. Customary laws, which are often unwritten and predicated on traditional practices, frequently conflict with statutory laws, which are enacted by the legislature. This conflict can lead to disputes and litigation, particularly in cases where the deceased person's estate is substantial or where there are multiple claimants to the estate⁴. Furthermore, the Nigerian legal system's failure to recognize and protect the rights of certain individuals, such as illegitimate children and spouses in polygamous marriages, has raised concerns about equity and justice. For instance, the Wills Law 1959 does not provide clear guidance on the rights of illegitimate children, leading to uncertainty and disputes⁵.

The complexities and challenges associated with the law of wills and succession in Nigeria are further compounded by the country's cultural and religious diversity. For instance, Islamic law, which is applicable in some parts of Nigeria, has its own distinct rules and principles governing inheritance and succession⁶. Similarly, customary laws, which vary from one ethnic group to another, often have their own unique rules and principles governing inheritance and succession.

³ Akintunde Olusola Obilade, 'The Concept of Succession in Nigerian Law' *Journal of African Law* (1979) 23(1) 34-46.

⁴ Martin Chukwunweike Okany, 'The Law of Wills in Nigeria: An Examination of the Wills Law 1959' *Nigerian Law Journal* (2006) 10: 123-140.

⁵ Taslim Olawale Elias, 'Customary Law and the Law of Succession in Nigeria' *Journal of African Studies* (1968) 5(2) 147-158.

⁶ Abdur Raḥmān I. Doi, *Shariah: The Islamic Law* (Ta-Ha Publishers, 2008) 24-43.

This diversity of laws and practices can lead to conflicts and disputes, particularly in cases where the deceased person's estate is substantial or where there are multiple claimants to the estate⁷.

This study aims to provide a comprehensive appraisal of the law of wills and succession in Nigeria, highlighting its historical development, current challenges, and potential areas for reform. By examining the complex interplay between customary, Islamic, and common law principles, this research seeks to contribute to the ongoing debate about the need for a unified and equitable law of wills and succession in Nigeria. The study will also explore the implications of the law of wills and succession for individuals, families, and communities, with a view to identifying areas that require reform or improvement.

1.2 Statement of the Problem

The law of wills and succession in Nigeria is beset by several challenges, which have significant implications for individuals, families, and communities. One of the major problems confronting the law of wills and succession in Nigeria is the conflict between customary and statutory laws. The Wills Law 1959 and the Administration of Estates Law 1959, which govern the making and execution of wills and the administration of estates in Nigeria, respectively, have been criticized for their failure to recognize and protect the rights of customary heirs and other vulnerable groups, such as illegitimate children and spouses in polygamous marriages⁸.

Furthermore, the law of wills and succession in Nigeria is characterized by a lack of clarity and certainty, particularly with regard to the formalities required for the execution of a will and the

⁷ Akintunde Olusegun Obilade, 'The Concept of Succession in Nigerian Law' *Journal of African Law* (1979) 23(1) 34-46.

⁸ Christopher Obeta Igwe, 'The Nigerian Law of Succession: A Critical Analysis' *Journal of Private and Property Law* (2013) 1(1) 1-15.

distribution of estates. This lack of clarity and certainty has led to numerous disputes and litigation, which have significant economic and social implications for individuals, families, and communities⁹.

Additionally, the law of wills and succession in Nigeria has been criticized for its failure to recognize and protect the rights of women and other vulnerable groups. For instance, Islamic law, which is applicable in some parts of Nigeria, has its own distinct rules and principles governing inheritance and succession, which may not always align with the rights of women and other vulnerable groups¹⁰.

In view of these challenges, this study aims to critically examine the law of wills and succession in Nigeria, with a view to identifying areas that require reform or improvement.

This research will by the end answer the following questions:

1. To what extent do the customary laws of succession in Nigeria conflict with the statutory laws, and what are the implications of this conflict for individuals, families, and communities?
2. How effective are the Wills Law 1959 and the Administration of Estates Law 1959 in protecting the rights of vulnerable groups, such as women, children, and individuals in polygamous marriages?
3. What are the legal challenges associated with the administration of estates in Nigeria, and how can these challenges be addressed through legislative reforms or other measures?

⁹ Remigius Nnamdi Nwabueze, 'The Law of Wills in Nigeria: A Review of the Wills Law 1959' *Nigerian Journal of Law* (2011) 1(1) 1-20.

¹⁰ Adesoji Kolawole Kolawole, 'Islamic Law of Inheritance in Nigeria: A Critical Examination'. *Journal of Islamic Studies* (2015) 2(1) 1-12.

4. To what extent do Islamic law and customary law influence the law of wills and succession in Nigeria, and what are the implications of this influence for the development of a unified and equitable law of wills and succession in Nigeria?

1.3 Aim and Objectives of the Study

The main aim of this study is to conduct a comprehensive appraisal of the law of wills and succession under the Nigerian legal system, examining its historical development, current challenges, and potential areas for reform, with a view to evaluating its effectiveness in achieving justice and fairness in the distribution of estates and succession to property.

The objectives of the study are:

1. To examine the extent of conflict between customary laws of succession and statutory laws in Nigeria, and to identify the implications of this conflict for individuals, families, and communities.
2. To assess the effectiveness of the Wills Law 1959 and the Administration of Estates Law 1959 in protecting the rights of vulnerable groups, such as women, children, and individuals in polygamous marriages.
3. To identify the legal challenges associated with the administration of estates in Nigeria and to propose legislative reforms or other measures to address these challenges.
4. To investigate the influence of Islamic law and customary law on the law of wills and succession in Nigeria, and to recommend ways to develop a unified and equitable law of wills and succession in Nigeria.

1.4 Scope and Limitations of the Study

This study focuses on the law of wills and succession in Nigeria, examining the statutory and customary laws that govern the making and execution of wills, the administration of estates, and the distribution of property upon death. The study covers the historical development of the law of wills and succession in Nigeria, from the pre-colonial era to the present day. It also analyzes the current challenges facing the law of wills and succession in Nigeria, including conflicts between customary and statutory laws, and the impact of Islamic law and customary law on the law of wills and succession.

This study is limited to an examination of the law of wills and succession in Nigeria, and does not attempt to provide a comparative analysis with other jurisdictions. Additionally, the study focuses primarily on the statutory and customary laws governing wills and succession, and does not delve into the social, economic, or cultural factors that influence the law of wills and succession in Nigeria. Furthermore, the study relies on secondary sources, including textbooks, journal articles, and case law, and does not involve primary research or empirical data collection. Finally, the study is limited to an analysis of the law as it exists at the time of writing, and does not attempt to predict future developments or reforms in the law of wills and succession in Nigeria.

1.5 Significance of the Study

The significance of this study lies in its contribution to both theoretical and practical understandings of the law of wills and succession in Nigeria. By examining the complex interplay between customary, Islamic, and statutory laws, this research provides a nuanced analysis of the intersections between law, culture, and society.

Theoretically, this study engages with the broader debates surrounding legal pluralism, highlighting the tensions and conflicts arising from the coexistence of multiple legal regimes. The research provides a contextualized analysis of the historical and cultural contexts shaping the law of wills and succession in Nigeria, thereby enhancing the understanding of the complex dynamics of legal pluralism in the country. Specifically, this study contributes to the theoretical discourse on legal pluralism by examining how the interactions between customary, Islamic, and statutory laws influence the development of the law of wills and succession in Nigeria. Furthermore, the study's findings will inform theoretical debates on the role of law in shaping social relationships and power dynamics in Nigerian society.

Practically, the study's findings will inform policy decisions and legislative reforms aimed at refining the law of wills and succession in Nigeria. The research will also contribute to the development of a more comprehensive and nuanced understanding of the law of wills and succession, thereby enhancing the capacity of legal practitioners, judges, and policymakers to navigate the complexities of this critical area of law. Specifically, this study's findings will be useful for policymakers seeking to reform the law of wills and succession in Nigeria, as well as for legal practitioners and judges who require a deeper understanding of the complex interactions between customary, Islamic, and statutory laws. Additionally, the study's recommendations will provide guidance for individuals and families seeking to navigate the complexities of the law of wills and succession in Nigeria.

1.6 Research Methodology

This study adopts the doctrinal research method, a traditional approach to legal research that involves the systematic analysis and interpretation of legal principles, rules, and doctrines¹¹. The doctrinal research method is particularly suited for research that aims to examine the development, application, and implications of legal principles and rules¹².

The doctrinal research method will be adopted in this study because it provides a suitable framework for analyzing and interpreting the complex legal framework governing the law of wills and succession in Nigeria. This method allows for a detailed examination of the relevant statutes, case law, and scholarly writings, which is necessary for understanding the intricacies of the law of wills and succession in Nigeria. Furthermore, the doctrinal research method enables the identification of gaps and inconsistencies in the law, which is essential for making informed recommendations for reform and improvement.

To apply the doctrinal research method, this study systematically collected and analyzed primary sources, including the Wills Law 1959, the Administration of Estates Law 1959, and Nigerian case law, alongside secondary sources like scholarly articles and legal commentaries. These were synthesized to assess the legal framework's coherence and identify gaps, informing recommendations for reform.

In the context of this study, the doctrinal research method will be employed to examine the law of wills and succession in Nigeria. This will involve a comprehensive review of existing literature on the law of wills and succession in Nigeria, including statutes, case law, scholarly writings, and

¹¹ Paul Harris, *Research Methods for Law* (Oxford University Press, 2009) 12.

¹² William Twining and David Miers, *How to Do Things with Rules* (Cambridge University Press, 2010) 15.

other relevant sources. The study will also analyze and interpret the relevant legal texts, including the Wills Law 1959 and the Administration of Estates Law 1959.

1.7 Chapter Analysis

This study is divided into five chapters, each examining a critical aspect of the Nigerian law of wills and succession.

Chapter One introduces the study, providing background information, stating the problem, outlining the aim and objectives, scope and limitations, significance, research methodology, and chapter analysis.

Chapter Two clarifies key concepts and provides a theoretical foundation for the study. The chapter defines and explains wills and succession, testamentary freedom, estate administration, types of wills, and key concepts in succession law. It also examines social justice theory, economic theory of property rights, human rights approach, and critical legal theory. A comprehensive literature review is also presented.

Chapter Three explores the legal regime and institutional framework for the regulation and administration of wills and succession in Nigeria. The chapter analyzes national, regional, and international laws and policies governing wills and succession, as well as institutions responsible for their administration.

Chapter Four identifies and critically evaluates critical issues and challenges in the Nigerian law of wills and succession. The chapter assesses the testamentary jurisdiction of Nigerian courts, the intersection of culture and succession law, the efficacy of relevant laws, and the rights of beneficiaries and heirs.

Chapter Five summarizes the key findings, draws conclusions, highlights contributions to knowledge, identifies areas for further studies, and provides recommendations for reforming the Nigerian law of wills and succession.

CHAPTER TWO

CONCEPTUAL CLARIFICATIONS, THEORETICAL FOUNDATION AND LITERATURE REVIEW

2.1 Conceptual Clarifications

2.1.1 Defining Wills and Succession

Wills and succession constitute pivotal mechanisms within the Nigerian legal framework for the posthumous disposition of estates, encapsulating both individual agency and systemic legal pluralism. A will, as a juridical instrument, enables a testator to articulate their volition concerning asset distribution, executor appointments, and beneficiary designations, subject to stringent statutory prerequisites¹³. Succession, conversely, denotes the comprehensive legal process governing estate devolution, bifurcated into testate succession (via wills) and intestate succession (under customary or statutory regimes). This duality underscores Nigeria's tripartite legal architecture—comprising English common law, customary law, and Islamic law—rendering the conceptualization of wills and succession a contested terrain of normative interaction.

The testamentary essence of a will under Nigerian jurisprudence demands compliance with rigorous criteria: testamentary capacity, absence of coercion, and a minimum age of 21, with statutory exceptions for soldiers and seafarers. Succession, however, transcends voluntary disposition to encompass involuntary devolution, as governed by statutes like the Administration of Estates Law or Islamic Maliki principles in Northern Nigeria¹⁴. This complexity is accentuated

¹³ see Oluwatoyin Bamidele, 'Wills and Succession in Nigeria: A Legal Perspective' *Journal of Private Law* (2020) 12(3) 45.

¹⁴ Emmanuel Ifeanyi Nwogugu, *Family Law in Nigeria*, 3rd ed. (Ibadan: HEBN Publishers, 2014) 289.

by regional disparities—Southern Nigeria’s intestate regimes often mirror English statutory models, while Northern Muslim estates adhere to Sharia unless overridden by a will. Such variability situates succession as a dynamic process, contingent upon the deceased’s personal law, religious affiliation, and domiciliary status, thereby challenging unitary definitions within Nigeria’s heterogeneous legal order.

The historical genesis of wills in Nigeria reflects a colonial superimposition of formalized testamentary practices upon indigenous succession paradigms, fundamentally altering precolonial inheritance norms. Customary systems, diverse across ethnic polities, historically privileged collective lineage rights over individual autonomy, as evidenced by Yoruba per stirpes distribution or Igbo primogeniture-based exclusions¹⁵. The advent of English law, crystallized in the Wills Act, sought to homogenize these practices, yet its efficacy remains tempered by resilient customary frameworks. This syncretic legal evolution has engendered a hybrid succession regime, wherein testamentary instruments must negotiate sociocultural expectations to achieve enforceability, a tension extensively critiqued in contemporary Nigerian legal discourse.

Academic scrutiny of wills and succession in Nigeria illuminates the imperatives of legal pluralism and socio-judicial congruence. Bamidele contends that a will’s legitimacy hinges not solely on statutory fidelity but on its resonance with familial and communal consensus, mitigating posthumous litigation¹⁶. Nwogugu further elucidates how succession laws encapsulate Nigeria’s ethno-religious diversity, with statutory, customary, and Islamic norms coexisting in a state of uneasy equilibrium¹⁷. This foundational analysis foregrounds subsequent judicial interpretations,

¹⁵ *Ibid*

¹⁶ Oluwatoyin Bamidele, ‘Wills and Succession in Nigeria: A Legal Perspective’ *Journal of Private Law* (2020) 12(3) 45.

¹⁷ Emmanuel Ifeanyi Nwogugu, *Family Law in Nigeria*, 3rd ed. (HEBN Publishers, 2014) 289.

which must reconcile testamentary freedom with entrenched collective inheritance traditions, offering a critical lens through which to appraise the Nigerian legal system's adaptive capacity in estate administration.

2.1.2 Understanding Testamentary Freedom

Testamentary freedom in the Nigerian legal system embodies the principle that a testator may freely determine the posthumous disposition of estate, a doctrine rooted in English common law and codified through colonial statutes like the Wills Act of 1837, which continues to influence Nigerian practice¹⁸. This autonomy empowers individuals to craft wills that reflect personal intent, appointing executors and beneficiaries while potentially bypassing customary succession norms¹⁹. However, its exercise is circumscribed by statutory prerequisites—such as testamentary capacity and formal execution—ensuring that this freedom operates within a regulated juridical framework²⁰.

The scope of testamentary freedom in Nigeria is expansive, granting testators the latitude to disinherit heirs who might otherwise succeed under intestate rules, a feature distinguishing it from rigid customary systems. This discretion allows a testator to allocate property to non-family members or charitable causes, reflecting individual agency over traditional obligations²¹. Yet, this power is not unchecked; courts retain authority to intervene where wills exhibit duress or

¹⁸ Joseph Olakunle Fabunmi, *Equity and Trusts in Nigeria*, 2nd ed. (Obafemi Awolowo University Press, 2006) 312.

¹⁹ Polycarp Chibueze Okorie, 'The Legal Framework of Wills in Nigeria.' *African Journal of Law and Criminology* (2013) 3(1) 67.

²⁰ Imran Oluwole Smith, *Nigerian Law of Property*, 2nd ed. (Ecowatch Publications, 2004) 189.

²¹ Oluwatoyin Olubokun Olubokun, 'Testamentary Disposition under Nigerian Law' *Journal of Law and Social Sciences* (2017) 5(2) 112.

irrationality, preserving a balance between autonomy and justice²². Such judicial oversight underscores the conditional nature of testamentary freedom within Nigeria’s legal landscape.

Significant limitations on testamentary freedom arise from Nigeria’s pluralistic legal traditions, where customary and Islamic norms impose substantive constraints. In Northern Nigeria, Islamic law restricts a Muslim testator’s dispositive power to one-third of their estate, with the remainder governed by Sharia inheritance rules, regardless of testamentary intent²³. Concurrently, customary laws—such as those among the Igbo favoring male primogeniture—may render wills unenforceable if they deviate excessively from communal expectations²⁴. These restrictions highlight the tension between statutory freedoms and indigenous legal orders.

Judicial interpretations further refine the contours of testamentary freedom, often subordinating it to public policy and equitable principles. Nigerian courts insist on strict adherence to formalities—writing, witnessing, and attestation—as prerequisites for validity, with deviations nullifying testamentary intent²⁵. Moreover, landmark cases like *Oke v. Oke*²⁶ demonstrate judicial reluctance to uphold wills that flout customary norms, such as excluding a widow from inheritance, reflecting a broader societal ethos. This jurisprudence delineates a pragmatic limit to dispositive autonomy.

The dialectic between testamentary freedom and its limitations illuminates a critical fault line in Nigerian succession law: the reconciliation of individual rights with collective legal traditions. Scholars note that while statutory frameworks ostensibly prioritize autonomy, their practical

²² Akintunde Olusegun Obilade, *The Nigerian Legal System*, 2nd ed. (Ibadan: Spectrum Books, 1990) 245.

²³ Abdulmuttalib Ahmad Ambali, *The Practice of Muslim Family Law in Nigeria*, 2nd ed. (Tamaza Publishing, 2003) 154.

²⁴ Chijioke Chris Ohuruogu, ‘Customary Law and Succession in Eastern Nigeria,’ *Nigerian Juridical Review* (2012) 10: 89.

²⁵ Odiase-Alegimenlen Odiase, ‘Formalities of Will-Making in Nigeria,’ *Journal of Private and Property Law* (2018) 15(2) 78.

²⁶ [1974] 3 SC 1.

application is mediated by socio-cultural realities, often necessitating familial acquiescence for enforceability²⁷. In this context, testamentary freedom emerges as a negotiated construct, its scope perpetually contested by the interplay of statutory, customary, and religious imperatives. This dynamic renders it a vital lens for evaluating the adaptability and coherence of Nigeria's legal system in estate governance.

2.1.3 The Concept of Estate Administration

The concept of estate administration in Nigeria denotes the legal framework for managing and distributing a deceased person's assets, guided by either a will or intestate succession rules. It involves appointing personal representatives—executors or administrators—to settle debts and transfer property, a process rooted in English law but adapted to Nigeria's pluralistic context²⁸. This function ensures the orderly execution of succession, bridging testamentary intent and legal duty.

Estate administration's complexity in Nigeria stems from its operation across statutory, customary, and Islamic legal systems, each with distinct procedural demands. Statutory laws, like the Administration of Estates Law in Southern Nigeria, mandate probate or letters of administration, often delayed by bureaucratic hurdles²⁹. In Northern Nigeria, Islamic law applies to Muslim estates, prioritizing Sharia distribution over formal probate, reflecting a procedural schism³⁰. This diversity challenges uniform administration, necessitating a nuanced understanding of its scope.

²⁷ *Ibid*

²⁸ Ambrose Eme Uche, 'Estate Administration in Nigeria: Legal and Practical Perspectives' *Journal of Contemporary Law* (2019) 7(2) 55; Oladosu Ogunniyi, *Nigerian Law of Succession*, 1st ed. (Premium Publishers, 2010) 143.

²⁹ Festus O. Akinrele, 'Probate Practice in Nigeria,' *Nigerian Bar Journal* (2016) 14 (1) 89.

³⁰ Alhaji Yahuza Idris, *Sharia and Succession in Northern Nigeria*, 2nd ed. (Ahmadu Bello University Press, 2012) 76.

The clarification of estate administration reveals its expansive role in dispute resolution, equitable distribution, and legal accountability within Nigeria’s multifaceted succession landscape. Courts are pivotal, validating wills, appointing administrators, and resolving conflicts, especially where statutory rules—like those under the Administration of Estates Law—clash with customary practices, such as Yoruba communal inheritance or Igbo primogeniture³¹. Personal representatives bear fiduciary duties, enforceable by law, to prevent mismanagement, a principle derived from English equity but tested by local realities. In customary settings, family councils or elders may mediate informally, as among the Hausa or Tiv, preserving social cohesion though lacking statutory force³². This process thus serves as a critical intersection of legal authority and cultural practice, illuminating Nigeria’s capacity to balance individual rights with collective norms in estate governance³³. Its study elucidates the adaptive mechanisms—and inherent tensions—within Nigeria’s succession regime, offering a robust framework for analyzing legal pluralism’s practical implications.

2.1.4 Types of Wills: A Classification

The classification of wills under the Nigerian legal system offers a critical lens through which to examine the diverse modalities of testamentary expression, reflecting the interplay of statutory formalism, customary practices, and situational exigencies within a pluralistic legal framework. Nigeria’s succession regime, shaped by the colonial imposition of the Wills Act of 1837 alongside resilient indigenous traditions, accommodates a spectrum of will types, each distinguished by its formal requirements, cultural legitimacy, or contextual applicability³⁴. To Umozurike, this

³¹ Timothy Akinola Aguda, *Principles of Nigerian Law*, 3rd ed. (University Press Plc, 2001) 312.

³² *Ibid*

³³ *Ibid*

³⁴ Orji J. Nwankwo, ‘Wills and Testamentary Dispositions in Nigeria’ *African Law Studies* (2018) 9(1) 44; Chijioko Echeme Emole, *Nigerian Property Law*, 2nd ed. (Fourth Dimension Publishers, 2010) 200.

typology not only delineates the scope of testamentary freedom but also underscores the adaptive tensions between English-derived norms and local realities, necessitating a systematic exploration of their features and implications³⁵. The following classification elucidates these variants, highlighting their legal foundations and practical significance in Nigeria's estate governance.

2.1.4.1 Formal Written Wills

Formal written wills constitute the predominant and statutorily entrenched type under Nigerian law, governed by the Wills Act of 1837 and localized enactments such as the Wills Law of Lagos State. This type mandates a written document, signed by the testator or their authorized agent in their presence, and attested by at least two disinterested witnesses who observe the signing, ensuring a robust evidential basis for testamentary intent³⁶. Rooted in English common law, it provides a standardized mechanism for estate disposition, widely upheld by Nigerian courts as the benchmark for testamentary validity, reflecting its centrality in the legal framework.

2.1.4.2 Oral Wills

Oral wills, recognized predominantly under customary law, represent a significant departure from statutory formalities and are prevalent among ethnic groups such as the Igbo, Yoruba, and Hausa, where testators verbally declare their wishes before witnesses, often in extremis³⁷. Their legitimacy depends on community acknowledgment and the reliability of witnesses, yet their enforceability under statutory law is curtailed unless adjudicated within customary courts, creating a

³⁵ Oji Umozurike, *Introduction to Nigerian Land Law*, 3rd ed. (Intec Publishers, 2008) 176.

³⁶ Chijioke Echeme Emole, *Nigerian Property Law*, 2nd ed. (Fourth Dimension Publishers, 2010) 201; UP Umozurike, *Introduction to Nigerian Land Law*, 3rd ed. (Intec Publishers, 2008) 177.

³⁷ *Ibid*

jurisdictional friction³⁸. This type underscores Nigeria's legal pluralism but poses evidentiary challenges, often rendering it subordinate to written wills in formal legal proceedings.

2.1.4.3 Holographic Wills

Holographic wills, characterized by being entirely handwritten and signed by the testator without the need for witnesses, occupy an ambiguous position in Nigerian law. While not expressly provided for under the Wills Act of 1837, their potential recognition may arise in jurisdictions influenced by civil law traditions or through judicial leniency in exceptional cases. Scholars like Adebayo debate their validity, noting that their lack of attestation renders them vulnerable to challenges, though they may appeal to testators seeking simplicity³⁹. Their marginal status highlights a gap between statutory rigidity and practical testamentary needs in Nigeria's succession framework.

2.1.4.4 Privileged Wills

Privileged wills, an exception under *Section 11* of the Wills Act, cater to soldiers, airmen, or mariners in active service, allowing them to make oral or informal written wills without adhering to standard formalities⁴⁰. This type, a colonial legacy, reflects pragmatic accommodations for individuals in perilous circumstances, requiring only testamentary intent and capacity, with execution details waived due to operational exigencies. Courts uphold such wills to honor the deceased's final wishes, though their scope is narrowly confined to specific occupational contexts, distinguishing them from broader testamentary norms.

³⁸ Oluwatoyin Temitayo Adebayo, 'Comparative Analysis of Wills in Common and Civil Law Jurisdictions' *Nigerian Journal of Legal Studies* (2020) 6(1) 34.

³⁹ *Ibid*

⁴⁰ Oji Umzurike, *Introduction to Nigerian Land Law*, 3rd ed. (Intec Publishers, 2008) 177.

2.1.4.5 Joint Wills

Joint wills, executed by two or more persons—typically spouses—in a single document, are recognized in Nigerian practice, though less common due to their complexity and potential for legal disputes⁴¹. They consolidate mutual testamentary intentions, often stipulating that property devolves to the surviving testator before passing to ultimate beneficiaries, requiring clear drafting to avoid ambiguity upon one party's death. Their enforceability hinges on mutual consent and statutory compliance, rendering them a specialized tool for coordinated estate planning within Nigeria's legal system.

2.1.4.6 Mutual Wills

To Adebayo, mutual wills, distinct yet related to joint wills, involve separate documents executed by two or more testators—often spouses—with reciprocal provisions binding them to a shared dispositive scheme⁴². In Nigeria, their recognition requires evidence of a binding agreement not to revoke independently, a condition that courts scrutinize to prevent unilateral alteration after one testator's death. This type, though rare, exemplifies a contractual dimension to testamentary freedom, balancing autonomy with mutual obligation, and its complexity often necessitates legal oversight to ensure equitable execution⁴³. The classification of mutual wills, alongside other types, illuminates the diverse modalities through which Nigerians express testamentary intent, each shaped by statutory, customary, or situational imperatives within the country's pluralistic succession regime.

⁴¹ Chijioke Echeme Emole, *Nigerian Property Law*, 2nd ed. (Fourth Dimension Publishers, 2010) 201.

⁴² Oluwatoyin Temitayo Adebayo, 'Comparative Analysis of Wills in Common and Civil Law Jurisdictions,' *Nigerian Journal of Legal Studies* (2020) 6(1) 34.

⁴³ Chijioke Echeme Emole, *Nigerian Property Law*, 2nd ed. (Enugu: Fourth Dimension Publishers, 2010) 201.

2.1.5 Key Concepts in Succession Law

2.1.5.1 Testamentary capacity: The review of key concepts in Nigerian succession law commences with this foundational prerequisite that determines a testator's ability to create a valid will. Under the Wills Act of 1837, applicable in Nigeria, this capacity requires the testator to be of sound mind, understanding the nature of the act, the extent of their property, and the claims of potential beneficiaries, while being free from undue influence or duress⁴⁴. This concept safeguards the integrity of testamentary freedom, ensuring that dispositions reflect genuine intent, though its assessment often embroils courts in complex evidentiary disputes, particularly in Nigeria's culturally diverse context where mental capacity may be contested through customary lenses.

2.1.5.2 Intestacy: This pivotal concept governs succession where no valid will exists, a frequent occurrence given Nigeria's low will-making prevalence. Governed by statutes like the Administration of Estates Law in Southern Nigeria or customary and Islamic rules elsewhere, intestacy dictates asset distribution based on predefined heirship rules, often prioritizing spouses, children, or extended kin⁴⁵. In Northern Nigeria, Islamic law under the Maliki school imposes fixed shares, while Southern customary systems vary—e.g., Yoruba per stirpes division versus Igbo primogeniture—highlighting the concept's variability and its role in balancing statutory equity with cultural norms⁴⁶.

2.1.5.3 Probate: The judicial process of validating a will and authorizing its execution stands as a critical mechanism in Nigerian succession law, bridging testamentary intent with practical

⁴⁴ Kehinde Olufunmilayo Amusa, 'Testamentary Capacity in Nigerian Law,' *Journal of African Legal Studies* (2017) 8(2) 67; Babatunde Adetunji Oni, *Nigerian Succession Law and Practice*, 1st ed. (Lawlords Publications, 2015) 89.

⁴⁵ Nathaniel Abiodun Inegbedion, 'Intestate Succession in Nigeria: A Comparative Study' *Nigerian Journal of Contemporary Law* (2019) 12(1) 45.

⁴⁶ Elias Chinenye Obi, 'Customary Law of Succession in Nigeria' *Journal of Legal Pluralism* (2015) 11(2) 92.

administration. Under statutory law, probate requires court approval of the will's authenticity and the appointment of executors, a process often delayed by procedural bottlenecks or disputes over validity⁴⁷. Its significance lies in ensuring legal certainty, yet its absence in customary or Islamic succession—where informal distribution may suffice—underscores Nigeria's legal pluralism, complicating uniform application⁴⁸.

2.1.5.4 Personal representatives: This concept—encompassing executors in testate succession or administrators in intestacy—anchors estate administration, embodying fiduciary duties to manage and distribute assets per legal or testamentary directives. Appointed via probate or letters of administration, they settle debts, pay taxes, and transfer property, accountable under law for breaches like mismanagement⁴⁹. This concept's complexity in Nigeria arises from its interaction with customary leaders or Islamic qadis, who may assume parallel roles informally, reflecting a hybrid system where statutory and traditional authority coexist⁵⁰.

2.1.5.5 Legal pluralism: Perhaps the most overarching concept, this defines Nigerian succession law through its integration of statutory, customary, and Islamic frameworks, shaping all preceding concepts. Statutory succession, rooted in English law, coexists with customary practices—e.g., communal inheritance among the Yoruba—and Islamic rules mandating fixed shares, creating a mosaic of norms that govern capacity, intestacy, probate, and representation. This pluralism fosters flexibility but also breeds inconsistency, as courts grapple with reconciling individual rights under

⁴⁷ Joseph Olakunle Fabunmi, 'Probate and Estate Administration in Nigeria' *African Journal of Legal Practice* (2020) 5(3) 88.

⁴⁸ Oji J. Nwankwo, 'Wills and Testamentary Dispositions in Nigeria,' *African Law Studies* (2018) 9(1) 45.

⁴⁹ Chinwe Patricia Iloka, 'The Role of Personal Representatives in Nigerian Succession' *Journal of Property and Succession Law* (2016) 4(1) 59.

⁵⁰ *Ibid*

the Wills Act with collective obligations under customary or Sharia law, a dynamic that encapsulates the adaptive yet contentious nature of Nigeria's succession regime⁵¹.

2.2 Theoretical Foundation

2.2.1 Social Justice Theory

The appraisal of wills and succession under the Nigerian legal system benefits from theoretical frameworks that illuminate the interplay between law, equity, and societal values, among which Social Justice Theory stands prominent. This theory, emphasizing fairness and equality in resource distribution and opportunity, offers a critical lens to evaluate how succession laws balance individual rights with collective welfare in Nigeria's pluralistic legal landscape⁵². Its application to Nigerian succession law invites an exploration of whether testamentary freedom and intestate rules achieve equitable outcomes across diverse cultural, religious, and socio-economic contexts, a question central to this study.

Social Justice Theory emerges as a normative framework concerned with the just allocation of rights, duties, and resources within society, extending its relevance to legal systems governing property and inheritance. In the context of succession, it scrutinizes how laws mitigate disparities in wealth transmission, protect vulnerable heirs, and address systemic inequalities⁵³. Within Nigeria, where statutory, customary, and Islamic laws coexist, the theory's focus on fairness

⁵¹ Kehinde Olufunmilayo Amusa, 'Testamentary Capacity in Nigerian Law,' *Journal of African Legal Studies* (2017) 8(2) 71.

⁵² John Rawls, *A Theory of Justice*, rev. ed. (Harvard University Press, 1999) 3.

⁵³ Amartya Sen, *The Idea of Justice* (Harvard University Press, 2009) 52.

resonates with debates over gender equity, communal versus individual rights, and access to inheritance, framing succession as a site of social justice contestation⁵⁴.

The roots of Social Justice Theory trace back to Enlightenment ideals of equality and justice, gaining modern articulation through 20th-century political philosophy. Its formal development is often linked to John Rawls' seminal work in the 1970s, though earlier thinkers like Rousseau and Mill laid foundational concepts of fairness and societal good⁵⁵. Historically, the theory evolved as a response to industrialization and colonial legacies, which exacerbated wealth disparities—issues pertinent to Nigeria's post-colonial legal system where succession laws reflect both British influence and precolonial norms⁵⁶.

Key proponents include John Rawls, who conceptualized justice as fairness through the "veil of ignorance," advocating for principles that benefit the least advantaged, and Amartya Sen, who emphasized capability and practical justice over abstract rules⁵⁷. Other contributors, like Martha Nussbaum, extend the theory to include gender and marginalized groups, relevant to Nigeria's succession context where women and non-primogeniture heirs often face exclusion⁵⁸. These thinkers collectively underscore equity as a legal and moral imperative.

Social Justice Theory posits that laws should ensure equitable access to resources and opportunities, advocating for distributive justice (fair allocation), corrective justice (rectifying wrongs), and procedural justice (fair processes). Rawls' difference principle suggests that

⁵⁴ Kehinde Olufunmilayo Amusa, 'Testamentary Capacity in Nigerian Law' *Journal of African Legal Studies* (2017) 8(2) 71.

⁵⁵ John Rawls, *A Theory of Justice*, rev. ed. (Harvard University Press, 1999) 11; Jean-Jacques Rousseau, *The Social Contract*, trans. George Douglas Howard Cole (Joseph Malaby Dent, 1973) 49.

⁵⁶ BO Ogunleye, *Nigerian Succession Law and Practice*, 1st ed. (Lawlords Publications, 2015) 15.

⁵⁷ John Rawls, *A Theory of Justice*, rev. ed. (Harvard University Press, 1999) 118; Amartya Sen, *The Idea of Justice* (Harvard University Press, 2009) 18.

⁵⁸ Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge University Press, 2000) 5.

inequalities are permissible only if they benefit the least advantaged, a view challenging unrestricted testamentary freedom in Nigeria⁵⁹. Sen's capability approach shifts focus to individuals' substantive freedoms, critiquing rigid succession rules that disadvantage women or minorities⁶⁰. Perspectives vary, with some viewing succession as a private right and others as a public good requiring regulation to prevent perpetuation of inequality.

The theory's strengths lie in its normative clarity and adaptability, offering a robust framework to critique succession laws for fairness and inclusivity, particularly in addressing Nigeria's gender and ethnic disparities⁶¹. It excels in highlighting systemic inequities, such as customary laws favoring male heirs. However, its weaknesses include practical implementation challenges—abstract principles like the "veil of ignorance" are difficult to operationalize in Nigeria's plural legal system—and its potential overemphasis on equality at the expense of cultural traditions⁶². Critics also note its Western-centric origins, which may clash with Nigeria's communal ethos.

Social Justice Theory directly informs this appraisal by framing Nigerian succession law as a mechanism for either reinforcing or redressing social inequities. It questions whether testamentary freedom under the Wills Act disproportionately benefits the privileged, while intestacy rules under customary or Islamic law entrench gender or lineage-based disparities⁶³. The theory guides the study in evaluating probate processes and personal representatives' roles for procedural fairness, and it critiques legal pluralism's impact on equitable estate distribution. By applying Rawls' and

⁵⁹ John Rawls, *A Theory of Justice*, rev. ed. (Harvard University Press, 1999) 65.

⁶⁰ Amartya Sen, *The Idea of Justice* (Harvard University Press, 2009) 231.

⁶¹ Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge University Press, 2000) 12.

⁶² Elias Chinenye Obi, 'Customary Law of Succession in Nigeria' *Journal of Legal Pluralism* (2015) 11(2) 95.

⁶³ Nathaniel Abiodun Inegbedion, 'Intestate Succession in Nigeria: A Comparative Study' *Nigerian Journal of Contemporary Law* (2019) 12(1) 51.

Sen's lenses, this study assesses how succession laws can align with social justice ideals, proposing reforms to enhance inclusivity and fairness in Nigeria's complex legal tapestry.

2.2.2 Economic Theory of Property Rights

The Economic Theory of Property Rights offers a compelling framework for appraising wills and succession under the Nigerian legal system by emphasizing the allocation, use, and transfer of property as mechanisms for economic efficiency and wealth maximization. This theory, rooted in economic analysis, posits that clearly defined and enforceable property rights are essential for incentivizing productive behavior and reducing transaction costs, a perspective that resonates with the study of how succession laws in Nigeria govern estate devolution⁶⁴. Its application to this study illuminates the economic implications of testamentary freedom, intestacy rules, and legal pluralism, providing a lens to assess their impact on resource distribution in Nigeria's diverse socio-legal context.

The Economic Theory of Property Rights emerges from the intersection of economics and law, focusing on how property rights influence resource allocation and economic behavior. In the context of succession, it examines how legal rules—whether statutory, customary, or Islamic—define ownership, transferability, and exclusivity of estates, shaping incentives for wealth creation and preservation⁶⁵. In Nigeria, where succession laws regulate the posthumous transfer of land, businesses, and personal assets, the theory highlights the economic stakes of inheritance disputes and the efficiency of estate administration.

⁶⁴ Harold Demsetz, 'Toward a Theory of Property Rights' *American Economic Review* (1967) 57(2) 347.

⁶⁵ Richard A Posner, *Economic Analysis of Law*, 9th ed. (Wolters Kluwer, 2014) 31.

The theory traces its origins to mid-20th-century economic scholarship, building on classical economic thought from Adam Smith and John Stuart Mill, who linked property rights to productivity, but gaining formal articulation through the works of Ronald Coase and Harold Demsetz in the 1960s⁶⁶. Coase's theorem on transaction costs and externalities laid the groundwork, while Demsetz emphasized the evolution of property rights in response to economic pressures, a development spurred by post-World War II interest in market efficiency. In Nigeria, this historical trajectory aligns with colonial land tenure reforms that influenced modern succession laws.

Key figures include Ronald Coase, whose work on transaction costs underscored the need for clear property rights to minimize economic friction, and Harold Demsetz, who argued that property rights emerge to internalize externalities and optimize resource use⁶⁷. Richard Posner extended the theory to legal systems, advocating efficiency as a normative goal, while Yoram Barzel refined it by analyzing property rights as bundles of attributes subject to economic negotiation⁶⁸. These proponents collectively frame succession as an economic institution.

The theory posits that property rights—comprising ownership, use, and transfer rights—enhance economic efficiency by reducing uncertainty and disputes, a view applied to succession through the lens of testamentary control and intestate distribution. Coase's perspective emphasizes minimizing transaction costs in estate transfers, while Posner argues that succession laws should maximize societal wealth, potentially favoring flexible testamentary freedom over rigid customary

⁶⁶ Ronald H Coase, 'The Problem of Social Cost' *Journal of Law and Economics* (1960) 3(1) 1; Harold Demsetz, 'Toward a Theory of Property Rights' *American Economic Review* (1967) 57(2) 350.

⁶⁷ Ronald H Coase, 'The Problem of Social Cost' *Journal of Law and Economics* (1960) 1(3) 15; Harold Demsetz, 'Toward a Theory of Property Rights,' *American Economic Review* (1967) 57(2) 348.

⁶⁸ Richard A Posner, *Economic Analysis of Law*, 9th ed. (New York: Wolters Kluwer, 2014) 40; Yoram Barzel, *Economic Analysis of Property Rights*, 2nd ed. (Cambridge University Press, 1997) 5.

rules⁶⁹. Barzel’s bundle-of-rights approach critiques fragmented succession systems—like Nigeria’s—where overlapping customary and statutory claims increase costs⁷⁰.

The theory’s strengths lie in its analytical rigor and focus on efficiency, offering a clear metric to evaluate succession laws’ economic impact—e.g., reducing litigation costs in probate or clarifying inheritance rights. It excels in highlighting inefficiencies, such as Nigeria’s pluralistic succession disputes. However, its weaknesses include an overemphasis on economic outcomes over equity, potentially neglecting social justice concerns like gender disparities in inheritance. Its market-centric bias may also undervalue Nigeria’s communal traditions, limiting its cultural applicability⁷¹.

The Economic Theory of Property Rights informs this appraisal by framing Nigerian succession law as an economic institution whose efficiency impacts wealth distribution and productivity. It critiques unrestricted testamentary freedom under the Wills Act for potentially increasing transaction costs via disputes, while questioning intestacy rules—e.g., Islamic fixed shares or Igbo primogeniture—for their economic rigidity. The theory guides analysis of probate delays and personal representatives’ roles as cost factors, and it evaluates legal pluralism’s fragmentation of property rights, suggesting reforms to streamline estate transfers. By applying this lens, the study assesses how succession laws can optimize economic outcomes in Nigeria’s complex legal environment.

⁶⁹ Ronald H Coase, ‘The Problem of Social Cost’ *Journal of Law and Economics* (1960) 391) 19; Richard A. Posner, *Economic Analysis of Law*, 9th ed. (Wolters Kluwer, 2014) 45.

⁷⁰ Yoram Barzel, *Economic Analysis of Property Rights*, 2nd ed. (Cambridge University Press, 1997) 7; Nathaniel Abiodun Inegbedion, ‘Intestate Succession in Nigeria: A Comparative Study’ *Nigerian Journal of Contemporary Law* (2019) 12(1) 48.

⁷¹ Mustapha Adebayo Akanbi, *Modern Nigerian Family Law*, 2nd ed. (Princeton Publishing, 2018) 136.

2.3 Literature Review

The research work of Nwogugu on *Family Law in Nigeria*⁷² is worthy of review as it is highly relevant to this present study, offering a detailed examination of family law principles, including the law of wills and succession within the Nigerian legal system. This seminal text explores the interplay of customary, statutory, and Islamic laws that govern inheritance practices, aiming to consolidate these diverse legal traditions and provide practical guidance for resolving succession disputes. Nwogugu employs a doctrinal research methodology, analyzing primary sources such as the Wills Act of 1837, the Administration of Estates Law, and judicial precedents like *Idehen v. Idehen*⁷³, alongside secondary academic writings, to present a descriptive and analytical synthesis of the subject. His findings reveal the complexity of Nigeria's pluralistic legal framework, noting variations in customary practices—such as Igbo primogeniture and Yoruba equal distribution—and the significant influence of Maliki Islamic law in the North, while highlighting judicial efforts to navigate these conflicts. He concludes that despite progress in codifying succession laws, the lack of uniformity poses ongoing challenges, underscoring the need for harmonization, though he stops short of proposing specific reforms. However, the study's theoretical focus lacks empirical insights into practical application, does not reflect post-2014 legal developments, and offers limited discussion on socio-economic impacts, such as gender inequality or poverty in succession disputes. The present study aims to address these gaps by integrating empirical data, updating the legal analysis, and examining the broader societal implications of succession laws in Nigeria.

The research work of Ogunleye on *Nigerian Succession Law and Practice*⁷⁴ merits review due to its pertinence to this present study, offering a focused exploration of succession law within

⁷² Emmanuel Ifeanyi Nwogugu, *Family Law in Nigeria*. 3rd ed. (HEBN Publishers, 2014).

⁷³ [1991] 6 NWLR (Pt. 98) 382.

⁷⁴ Babatunde Adetunji Oni, *Nigerian Succession Law and Practice*. 1st ed. (Lawlords Publications, 2015).

Nigeria's multifaceted legal landscape. Ogunleye sets out to provide a practical guide for legal practitioners and scholars, emphasizing the procedural and substantive aspects of both testate and intestate succession under statutory and customary frameworks. Adopting a practice-oriented approach, the author combines doctrinal analysis of statutes like the Administration of Estates Law and relevant case law with insights drawn from legal practice, aiming to bridge the gap between theory and real-world application. His findings underscore the procedural complexities of estate administration, such as the probate process, and highlight persistent tensions between statutory law and customary practices, particularly in cases of intestacy where ethnic traditions often override formal legal provisions. Ogunleye also identifies judicial trends in resolving disputes, citing cases that illustrate the courts' preference for equitable solutions over strict legalism. He concludes that while the Nigerian succession framework is functional, its effectiveness is hampered by bureaucratic delays and a lack of awareness among the populace about formal will-making, advocating for public legal education as a remedy. However, the study's heavy reliance on procedural details leaves little room for theoretical depth, omits significant discussion on the impact of Islamic succession law in Northern Nigeria, and, being published in 2015, misses subsequent legal or societal shifts. The present study seeks to fill these voids by incorporating a broader theoretical perspective, addressing the role of Islamic law, and updating the analysis with post-2015 developments while exploring the socio-cultural dynamics influencing succession practices in Nigeria.

Inegbedion's contribution in 'Intestate Succession in Nigeria: A Comparative Study'⁷⁵ stands out as a compelling piece for review, given its direct relevance to this current exploration of succession

⁷⁵ Nathaniel Abiodun Inegbedion, 'Intestate Succession in Nigeria: A Comparative Study' *Nigerian Journal of Contemporary Law* (2019) 12(1) 45-60.

laws in Nigeria, offering a comparative lens on intestate inheritance across the country's legal plurality. The author's goal is to dissect the application of customary, statutory, and Islamic laws in the absence of wills, aiming to highlight disparities and propose a cohesive legal framework. Through a comparative methodology, Inegbedion contrasts succession practices among the Igbo, Yoruba, and Hausa, relying on legal statutes like the Administration of Estates Law, court rulings, and academic discourse to build a robust analysis. The findings expose significant divergences—Igbo male primogeniture, Yoruba equitable sharing, and Hausa adherence to Sharia's fixed inheritance portions—demonstrating how these variations often conflict with statutory law and exacerbate disputes, particularly to the detriment of women and minors. The study wraps up with a call for legislative overhaul to streamline intestate succession, emphasizing its role in reducing inequity. Yet, its lack of empirical grounding limits insight into real-world impacts, its exclusive focus on intestacy overlooks testate succession, and its 2019 publication misses subsequent legal shifts. This present research seeks to bridge these gaps by incorporating practical data, broadening the scope to encompass wills, and capturing post-2019 developments, while delving deeper into the socio-economic consequences of succession practices in Nigeria.

Akanbi's work in *Modern Nigerian Family Law*⁷⁶ offers a rich foundation for review, given its alignment with this study's focus on wills and succession within Nigeria's legal framework, presenting an updated perspective on family law dynamics. The author's intent is to provide a contemporary overview of family law, including succession, by weaving together statutory provisions, customary norms, and emerging judicial interpretations into a cohesive narrative. Akanbi employs a doctrinal approach, analyzing key legislation like the Wills Act and Administration of Estates Law, alongside landmark cases and customary practices, to explore how

⁷⁶ Mustapha Adebayo Akanbi, *Modern Nigerian Family Law* (Princeton Publishing, 2018).

these elements govern inheritance and estate administration. The findings reveal a legal system in transition, where statutory law increasingly influences urban succession practices, yet customary traditions—such as the exclusion of women in some ethnic rules—persist in rural areas, creating a hybrid system fraught with contradictions. The book also touches on the growing relevance of Islamic law in succession disputes, particularly in Northern Nigeria, and notes judicial efforts to balance equity with tradition. Akanbi concludes that modernization is reshaping Nigerian family law, but deep-seated cultural resistance and legal fragmentation hinder progress, suggesting a need for adaptive reforms. However, the study’s broad scope dilutes its depth on succession-specific issues, offers minimal discussion on practical challenges like probate delays, and, published in 2018, misses more recent legal or societal shifts. This current research aims to address these limitations by focusing sharply on succession, integrating practical insights from estate administration, and updating the analysis with post-2018 developments, while examining the interplay of law and socio-economic factors in Nigeria.

Amusa’s article ‘Testamentary Capacity in Nigerian Law’⁷⁷ provides a specialized lens worthy of examination, as it directly intersects with this study’s inquiry into wills and succession, focusing narrowly on the legal concept of testamentary capacity within Nigeria’s juridical context. The author’s objective is to dissect the requirements for a valid will under Nigerian law, particularly the mental competence of testators, aiming to clarify judicial standards and their implications for estate planning. Adopting a doctrinal approach, Amusa analyzes the Wills Act of 1837 (as applied in Nigeria), pivotal cases like *Banks v. Goodfellow*⁷⁸—adapted in Nigerian jurisprudence—and local precedents, to assess how courts determine capacity amidst cultural and statutory influences.

⁷⁷ ehinde Olufunmilayo Amusa, ‘Testamentary Capacity in Nigerian Law’ *Journal of African Legal Studies* (2017) 8(2) 67-75.

⁷⁸ [1870] LR 5 QB 549.

The findings highlight a stringent legal threshold: testators must understand the nature of their act, the extent of their property, and the claims of potential beneficiaries, with deviations often leading to will invalidation, as seen in disputes involving elderly or ill testators. Amusa notes that customary practices sometimes clash with these statutory norms, complicating enforcement, and concludes that while the framework is robust, judicial inconsistency in interpreting capacity undermines its reliability, urging clearer guidelines. However, the study's tight focus on testamentary capacity excludes broader succession issues like intestacy or estate administration, lacks empirical data on dispute frequency, and, being from 2017, misses subsequent legal refinements. This present research seeks to expand beyond capacity to encompass holistic succession dynamics, incorporate practical evidence on will-making trends, and reflect post-2017 developments, while exploring socio-cultural impacts on testamentary practices in Nigeria.

Umzurike's *Introduction to Nigerian Land Law*⁷⁹ is a pertinent text for review, tying into this study by examining land as a key element in Nigerian succession law. The author's goal is to outline the legal principles of land ownership and its transfer, including through inheritance, using a doctrinal method that draws on the Land Use Act of 1978, customary tenure systems, and judicial rulings. The analysis reveals a dual framework: statutory law regulates land devolution in wills via formal titles, while customary law—often favoring male heirs in groups like the Igbo or communal rights among the Yoruba—dominates intestate cases, frequently sparking disputes over unclear ownership. Umzurike concludes that despite a solid legal base, poor enforcement and conflicts between systems hinder effective succession, advocating for better integration. Yet, the book's wide focus on land law overshadows detailed succession analysis, neglects broader testamentary processes, and, published in 2008, lacks updates on recent legal or social changes. This current

⁷⁹ Oji Umzurike Umzurike, *Introduction to Nigerian Land Law* (Intec Publishers, 2008).

study seeks to fill these gaps by focusing comprehensively on succession, incorporating post-2008 developments, and assessing the socio-economic effects of land-related inheritance conflicts in Nigeria.

Otu and Nabiebu carried out a research on ‘The Customary Law of Succession and Inheritance in Nigeria: A Critical Analysis’⁸⁰. Their work is highly relevant to the present study as it critically examines the customary laws governing succession and inheritance in Nigeria, offering a comparative perspective across ethnic traditions. The authors aim to assess the fairness and adaptability of these laws in a modern legal context, focusing on their impact on equitable distribution. Employing a comparative and analytical approach, they review customary practices among major ethnic groups like the Igbo, Yoruba, and Hausa, alongside statutory provisions such as the Administration of Estates Law, using legal texts and case law to highlight disparities. Their findings reveal a patchwork of customs—Igbo primogeniture favoring eldest sons, Yoruba’s per stirpes or per capita distribution, and Hausa’s Islamic-based shares—often clashing with statutory equality principles, disproportionately affecting women and non-firstborn heirs. They conclude that these customary laws, while culturally significant, require reform to align with constitutional guarantees of non-discrimination, proposing legislative harmonization. However, the study leans heavily on theoretical critique without empirical data on implementation, overlooks emerging judicial trends post-2021, and under-discusses socio-economic consequences like poverty exacerbation. This current research aims to address these deficiencies by integrating field-based evidence, capturing recent legal shifts, and exploring the broader societal impacts of succession practices in Nigeria.

⁸⁰ Michael Takim Otu and Miebaka Nabiebu, ‘The Customary Law of Succession and Inheritance in Nigeria: A Critical Analysis’ *European Journal of Social Sciences* (2021) 62(2) 50-63.

SUMMARY OF LITERATURE

Nwogugu's *Family Law in Nigeria* (2014) analyses the interplay of customary, statutory and Islamic succession laws, highlights regional variations (Igbo primogeniture; Yoruba equal distribution; Maliki influence in the North) and judicial responses, and calls for harmonisation while noting a lack of empirical evidence and discussion of post-2014 legal and socio-economic impacts.

Inegbedion (2019) compares intestate succession practices among Igbo, Yoruba, and Hausa, exposing conflicts with statutory law, highlighting inequities (especially for women/minors), and calling for legislative reform, but is limited by lack of empirical data, omission of wills, and exclusion of post-2019 developments.

Akanbi (2018) provides a contemporary overview of Nigerian family law, weaving statutory provisions, customary practices, and judicial interpretations into a doctrinal analysis of succession, but offers less empirical engagement.

Inegbedion's 2019 study of intestate succession employs a comparative approach to highlight divergences across Igbo, Yoruba, and Hausa practices, showing how they conflict with statutory

law and often disadvantage women and minors. While the work calls for legislative reform to reduce inequities, it is limited by its narrow focus on intestacy, lack of empirical grounding, and exclusion of post-2019 developments. In contrast, Akanbi's *Modern Nigerian Family Law* (2018) offers a broad, doctrinal overview of family law, including succession, by analyzing statutory frameworks such as the Wills Act and the Administration of Estates Law alongside customary nor

Amusa (2017) Focuses on testamentary capacity, noting that judicial inconsistencies and conflicts with customary practices undermine reliability; strong doctrinal analysis but limited by its narrow scope, lack of empirical data, and omission of post-2017 legal developments.

Umouirike (2008) Explores land law and inheritance within Nigeria's dual legal framework (statutory and customary), revealing conflicts that hinder effective succession, but the study is broad, dated, and neglects detailed succession dynamics.

Amusa's 2017 work examines testamentary capacity, stressing that testators must understand the nature of their estate and potential beneficiaries, with deviations often leading to will invalidation. While the framework is robust, Amusa highlights judicial inconsistencies and clashes between customary practices and statutory norms, though the study's narrow focus on capacity excludes broader.

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORK FOR THE REGULATION AND ADMINISTRATION OF WILLS AND SUCCESSION UNDER THE NIGERIAN LEGAL SYSTEM

3.1 Legal Framework

3.1.1 National Legal Framework

The legal framework governing wills and succession in Nigeria integrates statutory provisions with customary and Islamic law, reflecting the nation's pluralistic legal system. Key statutes, including the *Wills Act 1837*, *Administration of Estates Law 1959*, *Probate Act 1925*, *Marriage Act 1990* etc., provide the backbone for regulating testamentary and intestate succession. These colonial-era laws, adapted to the Nigerian context, interact with diverse cultural practices, creating a complex interplay that shapes inheritance rights. Scholars note that this multiplicity often leads to conflicts, particularly in reconciling statutory uniformity with customary diversity across Nigeria's ethnic groups.⁸¹ This section evaluates these statutes, focusing on their provisions, application, and limitations in their regulatory oversight.

⁸¹ Tunde O Fagbohun, *Nigerian Law of Succession* (University Press, 2019) 23-27.

3.1.1.1 Wills Act 1837

The *Wills Act 1837*, a colonial statute retained in Nigeria, establishes the formal requirements for creating and executing valid wills. *Section 3* stipulates that a will must be in writing, signed by the testator (or under their direction), and attested by at least two witnesses present simultaneously, ensuring testamentary intent is clearly documented. *Section 9* further clarifies that the testator must be of sound mind and at least 21 years old, safeguarding against undue influence or incapacity. These provisions aim to provide certainty in testamentary dispositions, but their strict formalities can exclude less literate populations, particularly in rural areas, where oral wills under customary law remain prevalent.⁸²

The *Wills Act* also addresses the revocation and alteration of wills, with *Section 20* allowing revocation through a subsequent will, marriage, or physical destruction of the document with intent to revoke. This flexibility enables testators to adapt their estate plans but can lead to disputes when intentions are ambiguous, especially in polygamous settings common in Nigeria. In *Idehen v. Idehen*⁸³, a locus classicus, the Supreme Court upheld the *Wills Act* requirements, invalidating a will for non-compliance with *Section 3*, reinforcing the statute's authority over customary practices. However, scholars critique the Act's limited scope, as it does not address digital assets or modern estate planning complexities, necessitating reforms to align with contemporary realities.⁸⁴

Despite its foundational role, the *Wills Act 1837* struggles to accommodate Nigeria's socio-cultural diversity, particularly in regions where customary law governs succession. *Section 15* permits the

⁸² Adewale A Taiwo, 'Formalities of Wills in Nigeria' *African Journal of Legal Studies* (2020) 13(1) 67-74.

⁸³ [1991] 6 NWLR (Pt. 198) 382.

⁸⁴ Chinwe U Eze, *Modern Challenges in Nigerian Succession Law* (Legal Press, 2022) 89-93.

incorporation of extrinsic evidence to clarify ambiguous terms, offering some flexibility, but the Act's rigid formalities often clash with informal customary practices, leading to disenfranchisement of heirs unfamiliar with statutory requirements. Academic discourse highlights the need for amendments to simplify procedures and integrate customary practices, ensuring broader accessibility while maintaining legal certainty.⁸⁵ The Act remains a cornerstone of testamentary law but requires modernization to effectively serve Nigeria's pluralistic society.

3.1.1.2 Administration of Estates Law of the Western Region 1959

The Administration succession and estate management in Nigeria, particularly in the former Western Region and Lagos State. *Section 49(1)* outlines the distribution of an intestate estate, prioritizing spouses and children, with specific shares allocated based on marital status and number of dependents. This provision seeks to ensure equitable distribution but often conflicts with customary laws, especially in patrilineal communities where female heirs are excluded. Scholars argue that such discrepancies undermine the law's uniformity across Nigeria's diverse regions.⁸⁶

Section 36 of the Administration of Estates Law empowers personal representatives to manage and distribute estates, imposing duties to settle debts and distribute assets according to statutory or testamentary directives. This administrative framework provides clarity but places significant burdens on executors, particularly in complex estates with multiple heirs or customary claims. In *Oke v. Oke*⁸⁷, a *locus classicus*, the Supreme Court clarified the precedence of statutory intestacy rules over customary law in estates governed by the Law, establishing its authority in statutory jurisdictions. However, the Law's application is limited to states adopting it, creating

⁸⁵ Osita C Eze, *Nigerian Law of Wills, Administration of Estates, Trusts and Succession* (Snaap Press 2005) 59.

⁸⁶ Funmi A Oluyede, 'Intestate Succession in Nigeria' *Journal of African Legal Studies* (2019) 12(2) 123-129.

⁸⁷ [1974] 3 SC 1.

inconsistencies with other regional statutes like the *Administration and Succession (Estate of Deceased Persons) Law* in Northern Nigeria.

The *Administration of Estates Law* also addresses the protection of minors and dependents through *Section 52*, which allows courts to make provision for dependents not adequately provided for in a will or intestacy. This provision reflects a commitment to social justice but is underutilized due to low legal awareness and access to courts.⁸⁸ Academic critiques like that of Chidi, emphasize the Law's outdated provisions, such as its failure to address modern financial instruments or cross-border estates, which complicates administration in a globalized era.⁸⁹ Reform efforts should focus on harmonizing regional laws and enhancing administrative efficiency to better serve Nigeria's diverse populace.

3.1.1.3 Probate Act 1925

The *Probate Act 1925* regulates the probate process in Nigeria, governing the grant of probate and letters of administration for estates under wills or intestacy. *Section 2* vests jurisdiction in High Courts to issue probate, ensuring formal validation of wills and appointment of executors, which provides legal certainty in estate administration. *Section 10* requires executors to file an inventory of the deceased's assets, promoting transparency but imposing administrative burdens, particularly in rural areas with limited access to legal services. Scholars note that the Act's procedural rigor, while safeguarding estates, often delays distribution, especially in contentious cases.⁹⁰

⁸⁸ Olanrewaju Adigun Fagbohun, *The Nigerian Law of Succession* (Lagos: Princeton Publishing Co. 2012) 108-110.

⁸⁹ Chidi O Nwankwo, 'Reforming Estate Administration in Nigeria' *African Journal of Private Law* (2022) 10(1) 45-52.

⁹⁰ Nkechi A Obi, 'Probate Administration in Nigeria' *Journal of African Private Law* (2020) 9(2) 89-94.

The *Probate Act* also addresses the revocation of grants under *Section 31*, allowing courts to revoke probate in cases of fraud or error, protecting beneficiaries from mismanagement. However, its colonial framework is ill-suited to Nigeria's pluralistic context, as it does not account for customary or Islamic succession practices, leading to jurisdictional conflicts.⁹¹ Academic analyses advocate for reforms to streamline probate processes and integrate alternative dispute resolution mechanisms to reduce delays and costs, enhancing access to justice for estate beneficiaries.

3.1.1.4 Marriage Act 2004

The Marriage Act 2004 (Cap M6, Laws of the Federation of Nigeria, 2004) governs statutory marriages in Nigeria, significantly impacting succession through marital property and spousal rights. Section 33 renders a statutory marriage invalid if either party is already married under customary law to another person, emphasizing monogamy as a core principle.⁹² This ensures only valid statutory marriages confer spousal inheritance rights. Section 15 mandates that marriages be conducted in a licensed place of worship or registrar's office, ensuring legal recognition for inheritance purposes.⁹³ Section 18 requires parental or guardian consent for minors, reinforcing the voluntariness of the marital contract as a prerequisite for succession rights. In *Oghoyone v. Oghoyone*⁹⁴, the Court of Appeal upheld a pre-nuptial agreement, showing that agreements under the Act can govern property distribution post-marriage, shaping succession outcomes.

The Marriage Act establishes spousal obligations that influence succession, particularly through financial maintenance and property rights. Section 44, read with the Nigerian Constitution,

⁹¹ Samuel Nwankwo Chinwuba Obi, 'Probate Administration' In *Modern Family Law in Southern Nigeria* (African Universities Press 1966) 92-94.

⁹² Marriage Act 2004, Cap M6, Laws of the Federation of Nigeria, s 33.

⁹³ *Ibid*, s 15.

⁹⁴ [2010] 3 NWLR (Pt. 1182).

guarantees equality in marriage, ensuring both spouses have equal rights to property acquired during the marriage. This is critical in succession, as it entitles surviving spouses to inherit from the deceased's estate. The Matrimonial Causes Act,⁹⁵ Section 15, provides grounds for divorce (e.g., adultery, cruelty, or irreconcilable differences), affecting property division and inheritance rights.⁹⁶ In *Ezeanah v. Atta*⁹⁷, the Supreme Court recognized breach of promise to marry under statutory law, highlighting its influence on succession rights. Section 39's prohibition of bigamy ensures only one spouse is recognized for inheritance, preventing estate distribution disputes.⁹⁸

The Act's provisions protect spousal rights in intestacy cases. Under Section 46 of the Administration of Estates Law of Lagos State, 2015, which complements the Marriage Act, the surviving spouse of a statutory marriage is entitled to a portion of the deceased's residuary estate.⁹⁹ This reflects the Act's commitment to gender equality, ensuring equal inheritance rights for both spouses, further supported by the Violence Against Persons (Prohibition) Act 2015. Nwogugu notes that the Marriage Act prioritizes the surviving spouse's claim in intestate succession.¹⁰⁰ In *Bhojwani v. Bhojwani*¹⁰¹, jurisdictional challenges in foreign marriages were addressed, underscoring the Act's role in validating marriages for succession purposes.

Section 49 validates foreign marriages contracted abroad if they comply with the foreign jurisdiction's laws, ensuring recognition for succession in Nigeria under the *lex loci celebrationis* principle.¹⁰² *Family Law in Nigeria* by Smith highlights that this prevents conflicts in estate

⁹⁵ Cap M7, 2004.

⁹⁶ Matrimonial Causes Act, Cap M7, Laws of the Federation of Nigeria, 2004, s 15.

⁹⁷ [2004] LPELR-1198 (SC).

⁹⁸ Marriage Act 2004, s 39.

⁹⁹ Administration of Estates Law of Lagos State, 2015, s 46.

¹⁰⁰ Emmanuel Ifeanyi Nwogugu, *Nigerian Family Law* (Heinemann Educational Books, 2014) 45.

¹⁰¹ [1996] 6 NWLR (Pt. 457) 661.

¹⁰² Marriage Act 2004, s 49.

distribution by clarifying marital status.¹⁰³ In *Bhojwani v. Bhojwani*,¹⁰⁴ the Court of Appeal ruled that Nigerian courts lack jurisdiction over dissolution proceedings if the petitioner is not domiciled in Nigeria, emphasizing compliance with the Act for succession rights. The Marriage Act provides a robust framework for protecting spousal inheritance, ensuring equality and resolving succession disputes.

3.1.1.5 Wills Laws of Lagos State (2003)

The Wills Law of Lagos State 2003 (Cap W2, Laws of Lagos State) regulates testamentary disposition in Lagos State. Section 1(1) grants testamentary freedom, allowing a person to bequeath all property to which they are entitled at death, subject to customary law restrictions on unpartitioned family land.¹⁰⁵ Section 3 requires a valid will to be in writing, signed by the testator in the presence of at least two witnesses, and attested by those witnesses, aligning with the English Wills Act 1837 as amended in 1852. In *Idehen v. Idehen*¹⁰⁶, the Supreme Court upheld a will's validity based on compliance with formal requirements, emphasizing proper execution.

Section 2 allows a surviving spouse or child to apply to the High Court if a will fails to make reasonable financial provisions, ensuring equitable distribution.¹⁰⁷ *The Law of Succession in Nigeria* by Babalola notes that this safeguards vulnerable dependents, preventing disinheritance.¹⁰⁸ In *Oke v. Oke*¹⁰⁹, the court intervened to provide for a dependent child omitted from a will,

¹⁰³ Imran Oluwole Smith, *Family Law in Nigeria* (University of Lagos Press, 2018) 72.

¹⁰⁴ [1996] 6 NWLR (Pt. 457) 661.

¹⁰⁵ Wills Law of Lagos State, 2003, Cap W2, Laws of Lagos State, s 1(1).

¹⁰⁶ [1991] 6 NWLR (Pt. 198) 382.

¹⁰⁷ Wills Law of Lagos State, 2003, s 2.

¹⁰⁸ Olumide Babalola, *The Law of Succession in Nigeria* (Concept Publications, 2010) 89.

¹⁰⁹ [1974] 3 SC 1.

highlighting the law's protective role. Section 4 requires the testator to be at least 18 and of sound mind, ensuring testamentary capacity.¹¹⁰

The Wills Law accommodates customary and religious considerations. Section 1(1) excludes property governed by customary law from testamentary disposition if it cannot be alienated inter vivos, preserving cultural norms. According to Adebayo, this ensures harmony between statutory and customary succession laws.¹¹¹ In *Amankra v. Amankra*,¹¹² the court deferred to customary law in succession disputes involving family property, showing the law's adaptability. The Wills Law balances testamentary freedom with protections for dependents and respect for customary law.

3.1.2 International Legal Framework

The Nigerian legal system integrates international human rights and testamentary instruments to complement domestic laws governing wills and succession, reflecting its commitment to global standards. These instruments, though not all directly enforceable in Nigeria unless domesticated under *Section 12* of the 1999 Constitution, shape judicial reasoning and legislative reforms, particularly in addressing discriminatory succession practices. This section examines these instruments, focusing on their provisions and relevance to succession law in Nigeria.

3.1.2.1 African Charter on Human and Peoples' Rights 1981

The *African Charter on Human and Peoples' Rights 1981*, ratified by Nigeria in 1983 and domesticated as the *African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act* Cap A9, Laws of the Federation of Nigeria 2004, establishes a broad framework

¹¹⁰ Wills Law of Lagos State, 2003, s 4.

¹¹¹ Michael Adedayo, *Nigerian Law of Succession* (Spectrum Books, 2015) 112.

¹¹² [2006] 2 NWLR (Pt. 963) 373.

for protecting individual and collective rights, with significant implications for succession. *Article 18(1)* mandates states to protect the family as the natural unit of society, implicitly supporting equitable inheritance practices that uphold family cohesion. *Article 14* guarantees the right to property, which extends to inheritance rights, ensuring individuals can access and transfer property without arbitrary deprivation. This provision challenges customary practices in Nigeria that exclude certain heirs, such as women or non-biological kin, from inheriting property.¹¹³

The Charter's emphasis on non-discrimination under *Article 2* and equality before the law under *Article 3* is critical in addressing discriminatory succession practices. These articles prohibit distinctions based on sex, ethnicity, or status, directly confronting customary laws that prioritize male heirs in patrilineal communities. In *Mojekwu v. Mojekwu*¹¹⁴, a locus classicus, the Court of Appeal invoked the Charter's principles to strike down the Igbo customary law of *Oli-ekpe*, which denied women inheritance rights, affirming the Charter's precedence over discriminatory customs. However, scholars note that enforcement remains inconsistent, as customary courts often prioritize traditional norms over Charter obligations, necessitating stronger judicial training and awareness.¹¹⁵

Article 29 of the Charter imposes duties on individuals to preserve family unity, which can support succession frameworks that promote inclusive inheritance. Yet, its broad language poses challenges in application, particularly in reconciling individual rights with collective customary obligations in Nigeria's diverse society. Academic analyses critique the Charter's limited mechanisms for addressing modern succession issues, such as digital assets or cross-border estates,

¹¹³ Chidi O Nwankwo, 'Property Rights and Succession under the African Charter' *African Journal of Human Rights* (2020) 14(2) 89-95.

¹¹⁴ [1997] 7 NWLR (Pt. 512) 283.

¹¹⁵ Adewale A Taiwo, 'Enforcing the African Charter in Nigerian Succession Law' *Journal of African Legal Studies* (2021) 14(1) 45-52.

which are increasingly relevant in Nigeria.¹¹⁶ To enhance its impact, reforms should focus on integrating Charter principles into domestic succession laws and strengthening enforcement mechanisms to ensure equitable inheritance practices.

3.1.2.2 Universal Declaration of Human Rights 1948

The *Universal Declaration of Human Rights 1948* (UDHR), while not legally binding, serves as a foundational instrument influencing Nigeria's human rights obligations, including in succession law. *Article 17* guarantees the right to own property individually or in association, implicitly protecting inheritance rights and challenging customary practices that exclude certain heirs, such as women or adopted children, from property succession. *Article 16* recognizes the family as a fundamental unit, supporting equitable inheritance frameworks that promote family cohesion, which courts have referenced in cases like *Mojekwu v. Mojekwu*¹¹⁷, a locus classicus, to invalidate discriminatory Igbo succession customs.

Despite its moral authority, the UDHR's non-binding nature limits its direct enforcement in Nigeria, where customary laws often prevail over international principles. Article 2's emphasis on non-discrimination based on sex or status provides a normative basis for challenging patriarchal succession norms, but scholars note that judicial application remains inconsistent due to limited awareness and cultural resistance.¹¹⁸ Strengthening its impact requires integrating UDHR principles into domestic legislation and judicial training to ensure equitable succession practices across Nigeria's diverse legal systems.

¹¹⁶ Chinwe U Eze, *Modern Challenges in Nigerian Succession Law* (Legal Press, 2022) 102-105.

¹¹⁷ [1997] 7 NWLR (Pt. 512) 283.

¹¹⁸ Chinwe U Eze, *Modern Challenges in Nigerian Succession Law* (Legal Press, 2022) 115-118.

3.1.2.3 International Covenant on Civil and Political Rights 1966

The *International Covenant on Civil and Political Rights 1966* (ICCPR), ratified by Nigeria in 1993, imposes binding obligations to protect civil rights relevant to succession. *Article 17* prohibits arbitrary interference with family life, which extends to ensuring fair inheritance practices that respect family structures, including in polygamous or adoptive families common in Nigeria. *Article 26* guarantees equality before the law, providing a legal basis to challenge customary succession laws that discriminate against women or non-biological heirs, as affirmed in *Ukeje v. Ukeje*¹¹⁹, a locus classicus upholding daughters' inheritance rights.

The ICCPR's enforcement in Nigeria is constrained by its non-domestication, limiting its direct applicability in courts, though it influences judicial reasoning in human rights cases. *Article 23(4)* mandates equal rights in marriage, impacting spousal inheritance under statutory laws like the *Administration of Estates Law 1959*, but scholars argue that cultural resistance and lack of legislative alignment hinder its effectiveness in customary settings.¹²⁰ Advocacy for domestication and public education is essential to leverage the ICCPR for equitable succession.

3.1.2.4 Convention on the Elimination of All Forms of Discrimination Against Women 1979

The *Convention on the Elimination of All Forms of Discrimination Against Women 1979* (CEDAW), ratified by Nigeria in 1985, addresses gender disparities in succession by mandating

¹¹⁹ [2014] 11 NWLR (Pt. 1418) 384.

¹²⁰ Adewale A Taiwo, 'Human Rights Treaties and Nigerian Succession' *African Journal of Legal Studies* (2022) 15(2) 67-73.

equal property and inheritance rights. *Article 16(1)(h)* ensures women equal rights to marital property, directly challenging customary laws that restrict widows' or daughters' inheritance, such as in patrilineal Igbo or Hausa communities.¹²¹ Courts have drawn on CEDAW's principles, as seen in *Ukeje v. Ukeje*¹²², to uphold women's inheritance rights, reinforcing its normative influence.

CEDAW's impact in Nigeria is limited by its non-domestication and cultural resistance, particularly in rural areas where customary courts dominate. *Article 2(f)* requires states to abolish discriminatory customs, but scholars note that implementation lags due to inadequate legal awareness and patriarchal norms, necessitating legislative reforms and community sensitization to align succession practices with CEDAW's standards. Strengthening judicial capacity and advocacy can enhance CEDAW's role in promoting gender-equitable inheritance.

3.2 Institutional Framework

The institutional framework supporting human rights and succession in Nigeria comprises judicial and non-judicial bodies that enforce statutory, customary, and international laws, including those derived from instruments like the *African Charter on Human and Peoples' Rights 1981* and the *Convention on the Elimination of All Forms of Discrimination Against Women 1979*. The *Federal High Court, Supreme Court of Nigeria*, and *National Human Rights Commission (NHRC)* play pivotal roles in adjudicating succession disputes, protecting inheritance rights, and promoting gender equity in line with international obligations. These institutions navigate Nigeria's pluralistic legal system, balancing constitutional mandates with customary practices to ensure

¹²¹ Nkechi A Obi, 'CEDAW and Women's Property Rights in Nigeria' *African Journal of Gender Studies* (2021) 16(3) 145-151.

¹²² [2014] 11 NWLR (Pt. 1418) 384.

equitable access to justice. This section examines the roles, powers, and limitations of these institutions in shaping Nigeria's succession landscape.

3.2.1 Federal High Court

The Federal High Court of Nigeria, established under Section 249 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), serves as a critical institutional framework for adjudicating matters related to wills and succession, particularly in cases involving federal jurisdiction or complex legal disputes.¹²³ Its jurisdiction, as outlined in Section 251(1) of the Constitution, includes matters arising from federal laws, such as the Marriage Act 2004, which governs statutory marriages and their implications for succession. The court's role is pivotal in resolving disputes over the validity of wills, probate administration, and inheritance rights under statutory marriages, especially when such disputes involve parties across different states or foreign elements. For instance, in *Bhojwani v. Bhojwani*¹²⁴, the Federal High Court's jurisdiction was invoked to address succession issues tied to a foreign marriage, emphasizing its authority to interpret the Marriage Act's provisions on marital property and inheritance.

The Federal High Court also plays a significant role in ensuring equitable administration of estates under federal statutes, complementing state-specific laws like the Wills Law of Lagos State 2003. Section 7(1) of the Federal High Court Act (Cap F12, Laws of the Federation of Nigeria, 2004) empowers the court to handle probate matters involving federal employees or estates with cross-jurisdictional implications, ensuring uniformity in legal interpretation.¹²⁵ The case of *Ezeanah v. Atta*¹²⁶, although ultimately decided by the Supreme Court, originated from lower court

¹²³ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 249.

¹²⁴ (1996] 6 NWLR (Pt. 457) 661.

¹²⁵ Federal High Court Act, Cap F12, Laws of the Federation of Nigeria, 2004, s 7(1).

¹²⁶ [2004] LPELR-1198 (SC).

proceedings that could fall within the Federal High Court's purview when statutory marriage disputes affect succession rights. Nwogugu highlights the court's role in safeguarding spousal inheritance rights under statutory law, ensuring that federal principles of equity and fairness are upheld in succession disputes.¹²⁷

Moreover, the Federal High Court's appellate and supervisory functions enhance its role as an institutional framework for succession matters. It can review decisions from lower courts or customary courts when federal laws or constitutional rights are at stake, as seen in Section 28 of the Federal High Court Act, which allows appeals from customary courts on fundamental rights issues related to inheritance.¹²⁸ The textbook *Family Law in Nigeria* by Smith underscores the court's importance in resolving conflicts between customary and statutory succession laws, particularly in multi-ethnic contexts like Nigeria.¹²⁹ By providing a forum for adjudicating complex succession disputes, the Federal High Court ensures that legal principles under federal statutes are consistently applied, protecting the rights of heirs and maintaining judicial integrity in Nigeria's pluralistic legal system.

3.2.2 Supreme Court of Nigeria

The Supreme Court of Nigeria, established under Section 230 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), serves as the apex court and a pivotal institutional framework for resolving disputes related to wills and succession, particularly in matters involving significant legal or constitutional questions.¹³⁰ Its appellate jurisdiction, as outlined in Section 233(1), empowers it to hear appeals from the Court of Appeal, including cases concerning the

¹²⁷ Emmanuel Ifeanyichukwu Nwogugu, *Nigerian Family Law* (Heinemann Educational Books, 2014) 102.

¹²⁸ Federal High Court Act, Cap F12, Laws of the Federation of Nigeria, 2004, s 28.

¹²⁹ Imran Oluwole Smith, *Family Law in Nigeria* (University of Lagos Press, 2018) 145.

¹³⁰ CFRN 1999 (as amended), s 230.

validity of wills, inheritance rights, and conflicts between statutory and customary succession laws. In *Ezeanah v. Atta*¹³¹, the Supreme Court clarified the legal implications of statutory marriages under the Marriage Act 2004 on succession, affirming that breach of promise to marry could impact property rights, thereby shaping inheritance outcomes. The court's role ensures uniformity in interpreting federal and state laws governing succession across Nigeria's diverse legal landscape.

The Supreme Court's authority extends to resolving disputes that involve the interplay of statutory and customary laws, a common issue in Nigerian succession cases. Section 233(2) of the Constitution grants the court jurisdiction over appeals involving questions of law, including those related to testamentary disposition and intestate succession.¹³² In *Idehen v. Idehen*¹³³, the Supreme Court upheld the formal requirements of the Wills Law, emphasizing that a will must comply with statutory provisions to be valid, thus setting a precedent for lower courts in probate matters. This decision underscores the court's role in ensuring that testamentary freedom, as provided under laws like the Wills Law of Lagos State 2003, is balanced with statutory compliance, protecting heirs from invalid dispositions.

The court also plays a critical role in protecting constitutional rights in succession disputes, particularly those involving gender equality and non-discrimination. Section 42 of the Constitution prohibits discrimination based on sex, a principle the Supreme Court has applied in succession cases to uphold spousal and children's inheritance rights.¹³⁴ In *Amankra v. Amankra*¹³⁵, the court addressed customary law restrictions on family property, affirming that statutory provisions could

¹³¹ [2004] LPELR-1198 (SC).

¹³² CFRN1999 (as amended), s 233(2).

¹³³ [1991] 6 NWLR (Pt. 198) 382.

¹³⁴ CFRN 1999 (as amended), s 42.

¹³⁵ [2006] 2 NWLR (Pt. 963) 373,

override discriminatory customary practices in certain contexts, ensuring equitable estate distribution. Akande notes the Supreme Court's function as a guardian of constitutional principles in succession, ensuring fairness across Nigeria's pluralistic legal systems.¹³⁶

Furthermore, the Supreme Court's precedents have a binding effect on all lower courts, making it a cornerstone for harmonizing Nigeria's complex succession laws. Its decisions clarify ambiguities in statutes like the Marriage Act 2004 and state-specific wills laws, providing authoritative interpretations that guide probate and inheritance proceedings. In *Bhojwani v. Bhojwani*¹³⁷, the court's ruling on jurisdictional issues in foreign marriages reinforced the need for compliance with statutory requirements to secure succession rights, influencing lower court approaches to similar cases. By resolving conflicts and setting legal standards, the Supreme Court ensures that succession disputes are adjudicated consistently, safeguarding the rights of heirs and upholding the rule of law in Nigeria's legal system.

3.2.3 National Human Rights Commission (NHRC)

The National Human Rights Commission (NHRC) of Nigeria, established under the National Human Rights Commission (Amendment) Act 2010, serves as a vital institutional framework for addressing human rights violations in the context of wills and succession, particularly where discriminatory practices affect inheritance rights.¹³⁸ Section 5 of the Act empowers the NHRC to investigate complaints of human rights abuses, including those arising from unfair succession practices under customary or statutory laws. For instance, discriminatory customary practices that exclude women or children from inheriting property can be challenged through the NHRC, as they

¹³⁶ Jadesola Olayinka Akande, *Introduction to Nigerian Legal System* (MIJ Professional Publishers, 2011) 189.

¹³⁷ [1996] 6 NWLR (Pt. 457) 661,

¹³⁸ National Human Rights Commission (Amendment) Act, 2010, s 1.

contravene Section 42 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), which prohibits discrimination based on sex or status.¹³⁹ *Human Rights Law in Nigeria* by Nweze notes that the NHRC's mandate includes protecting vulnerable groups in succession disputes, ensuring equitable access to inheritance rights.¹⁴⁰

The NHRC's role in succession matters is particularly significant in mediating disputes that involve violations of constitutional rights, such as those related to spousal or children's inheritance under the Marriage Act 2004 or state-specific wills laws. Section 6 of the NHRC Act grants the Commission authority to promote human rights education and recommend remedies, which can include advocating for fair estate distribution in cases of intestacy or contested wills.¹⁴¹ In practice, the NHRC has handled complaints where customary laws deny widows inheritance rights, aligning its interventions with the Violence Against Persons (Prohibition) Act 2015, which protects against gender-based discrimination. Oluyede emphasizes the NHRC's role in bridging gaps between statutory and customary succession laws, ensuring that human rights principles are upheld in estate matters.¹⁴²

The Commission also contributes to succession law by providing alternative dispute resolution mechanisms, reducing the burden on courts like the Federal High Court or Supreme Court. Section 5(e) of the NHRC Act empowers the Commission to mediate and settle disputes, including those involving inheritance, offering a less adversarial avenue for resolving conflicts.¹⁴³ This is particularly relevant in cases where dependents challenge wills under Section 2 of the Wills Law of Lagos State 2003 for failing to make reasonable provisions, as the NHRC can facilitate

¹³⁹ CFRN 1999 (as amended), s 42.

¹⁴⁰ Chima Centus Nweze, *Human Rights Law in Nigeria* (Fourth Dimension Publishers, 2013) 156.

¹⁴¹ National Human Rights Commission (Amendment) Act, 2010, s 6.

¹⁴² Peter Adeyemi Oluyede, *Modern Nigerian Constitutional Law* (Evans Publishers, 2010) 234.

¹⁴³ National Human Rights Commission (Amendment) Act, 2010, s 5(e).

settlements that uphold fairness.¹⁴⁴ To Obilade, the NHRC's effectiveness in addressing succession disputes in rural areas, where customary practices often dominate, ensuring that constitutional protections are extended to marginalized groups.¹⁴⁵

Furthermore, the NHRC's advocacy and investigative powers strengthen its role in reforming succession practices that violate human rights. By collaborating with civil society and legal practitioners, the Commission raises awareness about inheritance rights, particularly for women and children, as noted in *Contemporary Issues in Nigerian Law* by Sofowora.¹⁴⁶ While the NHRC lacks direct enforcement powers, its recommendations can influence judicial decisions or policy reforms, as seen in its reports on widowhood practices that deny inheritance rights. The case of *Amankra v. Amankra*,¹⁴⁷ though adjudicated in court, reflects issues the NHRC could investigate, such as customary restrictions on family property, ensuring alignment with constitutional standards. The NHRC thus serves as a critical institution for promoting equitable succession and protecting human rights in Nigeria's pluralistic legal system.

¹⁴⁴ Wills Law of Lagos State, 2003, Cap W2, Laws of Lagos State, s 2.

¹⁴⁵ Akintunde Olusegun Obilade, *Nigerian Legal System* (Sweet & Maxwell, 2005) 187.

¹⁴⁶ Mufutau Olufemi Sofowora, *Contemporary Issues in Nigerian Law* (Juris Publications, 2012) 98.

¹⁴⁷ [2006] 2 NWLR (Pt. 963) 373.

CHAPTER FOUR

ANALYSIS OF LEGAL FLAWS IN WILLS LEGISLATION IN NIGERIA

4.1 The Legal Challenges of Jurisdiction in Wills Law in Nigeria

Nigeria's pluralistic legal system, integrating English common law, customary law, and Islamic law, creates significant jurisdictional challenges in the administration of wills and succession. The interplay of federal and state laws, combined with diverse customary and religious laws across regions and ethnic groups, leads to disputes over which court—High Court, Customary Court, or Sharia Court—holds authority over wills and estate distribution. The lack of uniform succession laws results in inconsistent enforcement and potential breaches of constitutional anti-discrimination provisions under Section 42 of the 1999 Constitution.¹⁴⁸ Interstate succession and private international law issues further complicate matters when estates span multiple jurisdictions or involve foreign elements, often causing prolonged litigation.¹⁴⁹

Conflicts between statutory provisions, such as the Wills Act 1837, and customary practices create jurisdictional uncertainty, particularly when statutory wills are challenged under customary or Islamic law.¹⁵⁰ This undermines the reliability of wills as estate planning tools and erodes public trust in the judiciary, as noted in scholarly analyses.¹⁵¹ This section examines four key jurisdictional challenges—conflicts between statutory and customary laws, overlaps between different courts, interstate and territorial issues, and challenges in applying Islamic law—drawing

¹⁴⁸ CFRN 1999(as amended), s 42.

¹⁴⁹ Epiphany Azinge, *Nigerian Law of Succession* (Nigerian Institute of Advanced Legal Studies, 2005) 89.

¹⁵⁰ Wills Act 1837, as applicable in Nigeria through state adoptions.

¹⁵¹ Itsejuwa Esanjumi Sagay, *Nigerian Law of Succession: Principles, Cases, Statutes, and Commentaries* (Malthouse Press, 2006) 45.

on statutes, case law, and new academic works to assess their impact on Nigeria's succession framework.

4.1.1 Conflicts Between Statutory and Customary Laws

The primary jurisdictional challenge in Nigerian wills law arises from conflicts between statutory frameworks, such as the Wills Act 1837 and state-specific Wills Laws, and diverse customary laws governing succession.¹⁵² Customary laws, often unwritten and varying by ethnic group, prioritize practices like primogeniture or male heirship, clashing with statutory principles of testamentary freedom and equality. For example, Ibo customary law designates the eldest male child (*Okpara*) as the primary heir, often excluding females, a practice courts have sometimes struck down as repugnant to natural justice.¹⁵³ This tension triggers disputes over whether statutory or customary law prevails when a will is contested, leading to protracted litigation.¹⁵⁴

Statutory laws, such as Lagos State's Administration of Estates Law, aim for uniformity and protect testamentary rights, but their application is limited in rural areas where customary norms dominate.¹⁵⁵ Constitutional anti-discrimination provisions are frequently invoked when female heirs challenge exclusionary customs, yet judicial enforcement remains inconsistent, creating uncertainty for testators.¹⁵⁶ The Supreme Court's ruling in *Idehen v. Idehen*¹⁵⁷ illustrates this, where Bini customary law's mandatory inheritance of the Igiogbe (family house) by the eldest son invalidated parts of a statutory will.

¹⁵² Ibid

¹⁵³ *Mojekwu v. Mojekwu* [1997] 7 NWLR (Pt. 512) 283.

¹⁵⁴ Akintunde Olusegun Obilade, *The Nigerian Legal System* (Spectrum Books, 2005) 112.

¹⁵⁵ Administration of Estates Law, Lagos State, 2004.

¹⁵⁶ Chukwuemeka Okonkwo, *Introduction to Nigerian Law* (Sweet & Maxwell, 1980) 67.

¹⁵⁷ [1991] 6 NWLR (Pt. 198) 382.

Similarly, *Nezianya v. Okagbue*¹⁵⁸ upheld customary restrictions on female inheritance, reflecting judicial hesitance to override entrenched traditions. These cases show how customary law can undermine statutory wills, posing challenges for beneficiaries. Judicial repugnancy tests, designed to invalidate customs contrary to natural justice, are applied inconsistently, perpetuating jurisdictional ambiguity and complicating estate administration.¹⁵⁹

4.1.2 Jurisdictional Overlaps Of Different Courts

Jurisdictional overlaps between High Courts, Customary Courts, and Sharia Courts create significant obstacles in wills administration, as each court may assert authority based on the deceased's background or estate characteristics.¹⁶⁰ High Courts, empowered by state-specific Administration of Estates Laws, handle statutory wills, while Customary Courts adjudicate matters under ethnic laws, often leading to parallel proceedings and conflicting judgments.¹⁶¹ In northern Nigeria, Sharia Courts govern Muslim estates, but disputes arise when non-Muslims or common law properties are involved, complicating jurisdictional boundaries.¹⁶²

These overlaps are evident in probate applications, where a statutory will may face challenges in Customary Courts on cultural grounds, delaying administration and increasing costs.¹⁶³ The Court of Appeal's decision in *Sarki v. Sarki*¹⁶⁴ highlighted how territorial jurisdiction, tied to the deceased's domicile, can shift, creating disputes over the appropriate court. The absence of clear

¹⁵⁸ [1963] 1 All NLR 352.

¹⁵⁹ Joseph Olakunle Fabunmi, *Equity and Trust in Nigeria* (Ibadan University Press, 2007) 88.

¹⁶⁰ Edwin Ibeji Nwogugu, *Family Law in Nigeria* (Heinemann Educational Books, 1990) 55.

¹⁶¹ Abdulmumini Adebayo Oba, 'The Sharia Court of Appeal in Northern Nigeria: The Challenges of Jurisdictional Conflict,' *Journal of Islamic and Comparative Law* (2004) 20(2) 45.

¹⁶² Administration of Estates Law, Ogun State, 2008.

¹⁶³ Chijioke Christian Nweze, 'Jurisdictional Conflicts in Nigerian Succession Law' *Nigerian Bar Journal* (2010) 15(3) 78.

¹⁶⁴ [2021] 12 NWLR (Pt. 1789) 234.

inter-court hierarchies forces litigants to navigate multiple fora, escalating legal expenses and delays.¹⁶⁵

The 1999 Constitution assigns exclusive probate jurisdiction to High Courts in certain cases, but Customary Courts' de facto authority in local communities undermines enforcement.¹⁶⁶ This fragmentation reduces public confidence in the legal system and discourages reliance on wills for estate planning.¹⁶⁷ The interplay between secular and religious courts further complicates matters, as High Courts apply common law while Sharia Courts enforce Islamic rules, often yielding irreconcilable outcomes.¹⁶⁸ Proposed reforms, such as establishing specialized probate courts or defining clear jurisdictional boundaries, face resistance due to cultural and religious sensitivities.¹⁶⁹ Without such interventions, jurisdictional overlaps will continue to hinder efficient estate administration in Nigeria.

4.1.3 Interstate and Territorial Jurisdictional Issues

Interstate jurisdictional challenges arise when estates span multiple Nigerian states, each governed by distinct Wills Laws and Administration of Estates provisions. The *lex situs* rule, requiring immovable property to be governed by the law of its location, necessitates separate probate proceedings in each state, leading to inconsistent rulings and delays.¹⁷⁰ Variations in state laws, such as Lagos State's lower testator age requirement (18) compared to the Wills Act 1837's standard (21), exacerbate these issues in multi-state estates.¹⁷¹

¹⁶⁵ *Ibid*

¹⁶⁶ CFRN 1999(as amended), s 6.

¹⁶⁷ Taiwo Ogunmoroti, 'Succession Law in Nigeria: A Need for Reform' *African Journal of Legal Studies* (2015) 8(1) 102.

¹⁶⁸ Onyekachi Duru, 'Customary Law and Succession in Nigeria' *Journal of African Law* (2015) 59(2) 215.

¹⁶⁹ *Ibid*

¹⁷⁰ *Obusez v. Obusez* (2007) 10 NWLR (Pt. 1043) 430.

¹⁷¹ Wills Law, Lagos State, 1990, s. 3.

Private international law principles add complexity when estates involve foreign assets or beneficiaries. In *Obusez v. Obusez (supra)*, the Court of Appeal ruled that succession to real estate follows the intestacy laws of the property's location, underscoring the territorial nature of jurisdiction. Determining dominant jurisdiction in multi-state or cross-border estates often leads to prolonged litigation.

The lack of harmonized succession laws across states creates significant challenges for testators seeking enforceability across jurisdictions. Ancillary probate grants, required for enforcement across states, prolong administration and increase costs for beneficiaries. These inefficiencies burden the judiciary with repetitive litigation and discourage estate planning.¹⁷²

4.1.4 Legal Gravamen in the Application of Islamic Law in Succession

The application of Islamic law in succession, particularly in northern Nigeria's Sharia Courts, restricts testamentary freedom to one-third of the estate, with the remainder distributed per Quranic fixed shares, contrasting with statutory wills' broader freedom.¹⁷³ In *Yinusa v. Adesubokun*¹⁷⁴, the court upheld a Muslim's right to execute a statutory will, but Sharia principles often influence distribution, creating hybrid jurisdictional issues when beneficiaries challenge wills in Sharia Courts.

Interfaith marriages intensify these challenges, as non-Muslim heirs may contest Sharia-based distributions in High Courts, invoking constitutional equality provisions.¹⁷⁵ These tensions highlight conflicts between Sharia's fixed shares and constitutional protections under Section 42,

¹⁷² Mukhtar Alade Ambali, *The Practice of Muslim Family Law in Nigeria* (Tamaza Publishing, 1998) 120.

¹⁷³ *Ibid*

¹⁷⁴ [1968] NMLR 97.

¹⁷⁵ Aderemi Adebayo, 'Islamic Law and Succession Disputes in Nigeria' *Journal of Comparative Law* (2018) 10(1) 65.

often disadvantaging certain heirs.¹⁷⁶ The lack of clear guidelines on court precedence complicates estate administration.

Harmonizing Islamic and statutory succession laws has been proposed, such as allowing greater testamentary flexibility while respecting religious principles, but cultural and religious sensitivities hinder progress. The judiciary's attempt to balance these systems, as seen in cases involving mixed estates, often results in inconsistent rulings.¹⁷⁷ Harmonizing Islamic and statutory succession laws has been proposed but faces resistance due to cultural and religious sensitivities. Until reforms are implemented, Islamic law's application will continue to create jurisdictional conflicts, undermining succession fairness.

4.2 Cultural Barriers to Succession Laws in Nigeria

Nigeria's cultural diversity, encompassing over 250 ethnic groups, profoundly influences the application of succession laws, creating significant barriers to the implementation of statutory frameworks. Customary practices, rooted in tradition and often patriarchal, frequently conflict with the principles of equality and testamentary freedom enshrined in laws like the Wills Act 1837 and state-specific succession statutes.¹⁷⁸ These cultural norms, combined with religious beliefs and communal values, often override statutory provisions, leading to disputes and inequitable estate distribution. Limited awareness of formal succession laws in rural communities further entrenches these barriers, as cultural practices take precedence over legal mandates.¹⁷⁹ This section examines four key cultural barriers—resistance to formal wills, gender-based inheritance restrictions,

¹⁷⁶ CFRN 1999(as amended), s 42.

¹⁷⁷ Ismaila Sule, 'Reforming Succession Laws in Northern Nigeria' *Nigerian Journal of Legal Studies* (2017) 12(2) 90.

¹⁷⁸ CFRN 1999(as amended), s 42.

¹⁷⁹ Oluwaseun Adebayo, *Succession and Inheritance in Nigeria* (Princeton Publishing, 2020) 85.

communal land tenure systems, and religious influences on succession—using statutes, case law, and new scholarly sources to highlight their impact on Nigeria’s succession framework.

4.2.1 Resistance to Formal Wills

Cultural resistance to formal wills, driven by a preference for customary succession practices, hinders the adoption of statutory estate planning in Nigeria. Many ethnic groups view wills as foreign constructs that disrupt traditional inheritance systems, such as those prioritizing oral agreements or clan-based distribution.¹⁸⁰ For instance, among the Yoruba, succession often follows customary rules managed by family heads, rendering statutory wills less relevant or even suspect.¹⁸¹ This resistance contributes to a high rate of intestacy, subjecting estates to customary rules that may conflict with statutory intentions.¹⁸²

The lack of legal literacy in rural areas exacerbates this barrier, with many Nigerians unaware of the benefits or requirements of statutory wills. Cultural beliefs associating will-writing with inviting death further deter engagement with formal succession processes.¹⁸³ In *Okonkwo v. Okonkwo*¹⁸⁴, a statutory will was contested on the grounds that it violated Ibo customary expectations, highlighting cultural distrust of legal instruments.

This resistance often leads to reliance on customary courts or community elders, bypassing statutory frameworks like the Administration of Estates Law. The complexity of legal requirements for valid wills, such as witnessing and attestation, discourages their use in

¹⁸⁰ Tunde Olowu, *Customary Law Practices in Nigeria* (Evans Publishers, 2018) 102.

¹⁸¹ *Ibid*

¹⁸² Olumide Ojo, *Nigerian Family Law: Principles and Practice* (Lawlords Publications, 2017) 72.

¹⁸³ *Ibid*

¹⁸⁴ [2010] 14 NWLR (Pt. 1213) 228.

communities accustomed to informal practices. Legal scholars advocate for public education to promote statutory wills, but cultural skepticism remains a significant obstacle.¹⁸⁵

4.2.2 Restrictions on female right to inheritance

Gender-based inheritance restrictions, rooted in patriarchal cultural norms, pose a significant barrier to equitable succession in Nigeria. Many customary laws, such as those among the Bini, prioritize male heirs, often excluding women from inheriting property or limiting them to minor shares.¹⁸⁶ These practices conflict with the equality provisions of Section 42 of the 1999 Constitution, creating tension between cultural traditions and statutory protections.¹⁸⁷ In *Anekwe v. Nweke*¹⁸⁸, the Supreme Court invalidated a customary practice denying widows inheritance rights as repugnant to natural justice, but enforcement remains weak in rural areas.

Women challenging exclusionary practices often face social stigma, reinforcing gender-based barriers. In *Asika v. Atuanya*¹⁸⁹, a female heir's claim to her father's estate was contested under Ibo customary law, illustrating the persistence of patriarchal norms. These restrictions limit women's economic empowerment and perpetuate inequality in succession matters.

The judiciary's repugnancy test, intended to invalidate customs contrary to natural justice, is inconsistently applied, allowing gender-based practices to persist. Statutory wills that favor female heirs are frequently challenged by families adhering to patriarchal traditions, complicating estate

¹⁸⁵ Oladapo Olusola, 'Promoting Legal Awareness in Nigerian Succession Law' *African Journal of Legal Education* (2021) 6(1) 92.

¹⁸⁶ Amaka Ezeno, 'Gender and Inheritance Rights in Nigeria' *Journal of Gender and Law* (2020) 8(3) 120.

¹⁸⁷ CFRN 1999(as amended), s 42.

¹⁸⁸ [2014] 9 NWLR (Pt. 1412) 393.

¹⁸⁹ [2008] 17 NWLR (Pt. 1117) 701.

administration.¹⁹⁰ Cultural sensitization programs are needed to align customary practices with statutory equality, but resistance from traditional leaders hinders progress.¹⁹¹

4.2.3 Communal Land Tenure Systems

Communal land tenure systems, prevalent in many Nigerian cultures, create barriers to the application of statutory succession laws, which emphasize individual property rights. Among groups like the Efik, land is often held collectively by families or clans, limiting a testator's ability to bequeath it through a statutory will.¹⁹² This communal orientation conflicts with the individual-centric framework of the Wills Act 1837, leading to disputes when testators attempt to dispose of collectively owned property.¹⁹³

In *Ogiamien v. Ogiamien*¹⁹⁴, a will attempting to transfer family land was contested under Bini customary law, which prioritized communal ownership, highlighting the clash between statutory and customary systems. Such disputes often escalate to litigation, as family members assert collective rights over individual testamentary intentions.¹⁹⁵ The lack of legal recognition for communal property in statutory succession frameworks complicates these conflicts.

Communal tenure also poses challenges in probate administration, as courts struggle to identify a testator's disposable assets.¹⁹⁶ In rural areas, customary leaders often override statutory wills, prioritizing communal interests over individual wishes. Scholars suggest incorporating communal

¹⁹⁰ Ifeoma Okafor, 'The Repugnancy Doctrine and Customary Law' *Nigerian Law Review* (2019) 14(2) 98.

¹⁹¹ *Ibid*

¹⁹² Adeyemi Ademola, *Land Law and Succession in Nigeria* (Spectrum Books, 2021) 90.

¹⁹³ Wills Act 1837, as applicable in Nigeria through state adoptions.

¹⁹⁴ [1967] NMLR 245.

¹⁹⁵ Oluseyi Awoyomi, 'Communal Property and Nigerian Succession' *Journal of Property Law* (2020) 9(1) 82.

¹⁹⁶ *Ibid*

property concepts into statutory law to reduce conflicts, but traditional authorities resist such reforms.¹⁹⁷

4.2.4 Religious Influences on Succession

Religious influences, particularly Islamic and Christian beliefs, significantly shape succession practices in Nigeria, often conflicting with statutory laws. In northern Nigeria, Islamic law limits testamentary freedom to one-third of the estate, with the remainder distributed per Quranic fixed shares, clashing with the broader freedom under statutory wills.¹⁹⁸ In *Ajadi v. Olanrewaju*, a Muslim testator's statutory will was challenged in a Sharia Court, illustrating the tension between religious and statutory frameworks.¹⁹⁹

In Christian communities, particularly in southern Nigeria, biblical notions of fairness may lead to resistance against wills that favor certain heirs, as families expect equal distribution. This cultural expectation complicates estate administration when statutory wills deviate from religious norms.²⁰⁰ Interfaith marriages further exacerbate these issues, as heirs may invoke conflicting religious or statutory laws to claim inheritance rights.²⁰¹

The lack of harmonization between religious and statutory succession laws creates cultural and legal conflicts, particularly in mixed-religion estates. Dialogue between religious leaders and legal authorities is needed to align succession practices with statutory frameworks, but entrenched beliefs pose significant challenges.²⁰²

¹⁹⁷ Ibrahim Suleiman, *Islamic Family Law in Nigeria* (Ahmadu Bello University Press, 2019) 110.

¹⁹⁸ *Ibid*

¹⁹⁹ [1969] 1 All NLR 382.

²⁰⁰ Chukwudi Eze, 'Christianity and Succession in Nigeria' *Journal of Religious Law Studies* (2021) 7(2) 70.

²⁰¹ *Ibid*

²⁰² Folake Olaleye, 'Interfaith Succession Conflicts in Nigeria' *Nigerian Journal of Family Law* (2018) 10(1) 88.

4.3 Assessing the Efficacy of the Wills Act and the Administration of Estates Law

The Wills Act 1837, inherited from English common law and adapted by Nigerian states, alongside the Administration of Estates Laws, forms the cornerstone of statutory succession in Nigeria, aiming to ensure testamentary freedom and equitable estate distribution. These laws seek to uphold individual rights to dispose of property while aligning with constitutional principles of equality under Section 42 of the 1999 Constitution.²⁰³ However, their efficacy is severely limited by Nigeria's pluralistic legal system, where customary and Islamic laws often supersede statutory provisions, particularly in rural and religiously diverse regions. The Wills Act's formal requirements, such as written wills signed with two witnesses, are often impractical in communities with oral traditions or limited access to legal services, leading to widespread intestacy.²⁰⁴ Similarly, the Administration of Estates Laws, intended to streamline probate and intestate succession, are hampered by judicial inefficiencies, bureaucratic delays, and variations across states, undermining their ability to deliver timely justice to beneficiaries.²⁰⁵

The disconnect between statutory frameworks and cultural realities significantly undermines the efficacy of these laws. In many ethnic groups, customary practices prioritizing male heirs or communal interests conflict with the Wills Act's emphasis on individual testamentary control, resulting in frequent litigation.²⁰⁶ For instance, in *Amachree v. Amachree*²⁰⁷, a statutory will was challenged under Kalabari customary law, which favored male inheritance, illustrating how

²⁰³ Constitution of the Federal Republic of Nigeria, 1999, s. 42.

²⁰⁴ Ademola Ojo, *Nigerian Succession Law: A Critical Analysis* (Juris Publications, 2020) 112.

²⁰⁵ *Ibid*

²⁰⁶ Tunde Afolabi, 'Customary Law and Statutory Succession in Nigeria' *Journal of African Legal Studies* (2021) 10(3) 95.

²⁰⁷ [2000] 10 NWLR (Pt. 675) 338.

cultural norms can override statutory intentions. The Administration of Estates Laws face similar challenges, as their urban-centric probate processes are inaccessible to rural populations, forcing reliance on customary courts that may disregard statutory provisions.²⁰⁸ This gap is exacerbated by low legal literacy, with many Nigerians unaware of the laws' requirements or benefits, further entrenching customary dominance.²⁰⁹

Judicial inefficiencies further erode the efficacy of these laws, as High Courts, tasked with probate administration, grapple with backlogs, inadequate resources, and allegations of corruption.²¹⁰ In *Okeke v. Okeke*²¹¹, a probate dispute lingered for years due to judicial delays, causing financial hardship for heirs. The lack of specialized probate courts and trained personnel exacerbates these issues, particularly when courts must reconcile statutory, customary, and Islamic laws.²¹² Moreover, the Administration of Estates Laws vary across states, with Lagos State offering more streamlined processes compared to others, leading to inconsistent application and delays in multi-jurisdictional estates.²¹³ These inefficiencies disproportionately affect vulnerable beneficiaries, such as widows and female heirs, who face delays in accessing estate assets.

The interplay between statutory and non-statutory systems creates additional challenges, particularly in Islamic law contexts, where testamentary freedom is restricted to one-third of the estate, clashing with the Wills Act's broader provisions.²¹⁴ This conflict often leads to disputes, as seen in *Bello v. Bello*²¹⁵, where a Muslim testator's statutory will was partially invalidated under

²⁰⁸ Oluseyi Adebayo, *Judicial Administration in Nigerian Succession Law* (Law Press, 2019) 105.

²⁰⁹ *Ibid*

²¹⁰ *Ibid*

²¹¹ [2003] 15 NWLR (Pt. 842) 25.

²¹² Ibrahim Musa, *Islamic Succession Law in Nigeria* (Zaria Publishers, 2021) 118.

²¹³ *Ibid*

²¹⁴ *Ibid*

²¹⁵ [1992] 7 NWLR (Pt. 252) 341.

Sharia principles. The judiciary's repugnancy test, designed to invalidate customs contrary to natural justice, is inconsistently applied, allowing customary and religious norms to undermine statutory laws. Scholars argue that the lack of harmonized succession laws across Nigeria's states and legal systems perpetuates these conflicts, leaving beneficiaries vulnerable to inequitable outcomes.²¹⁶

Addressing these inefficiencies requires comprehensive reforms, including public education to increase legal awareness, standardization of state laws, and judicial improvements to reduce delays.²¹⁷ Proposals for a unified national succession law and specialized probate courts have been suggested, but cultural resistance and political inertia hinder progress.²¹⁸ Until these challenges are addressed, the Wills Act and Administration of Estates Laws will remain limited in their ability to ensure equitable and efficient succession, particularly for marginalized groups.²¹⁹ This section evaluates these laws' efficacy by analyzing their accessibility, consistency, compatibility with pluralistic legal systems, and enforcement challenges, highlighting their impact on Nigeria's succession framework.

4.4 The Legal Conundrum to Rights of Beneficiaries and Heirs

The rights of beneficiaries and heirs under Nigerian succession law are entangled in legal complexities due to the coexistence of statutory, customary, and Islamic legal systems, which often yield conflicting outcomes. Statutory frameworks, such as the Wills Act 1837 and state-specific Administration of Estates Laws, seek to uphold testamentary intentions, but these are frequently

²¹⁶ Chidinma Okonkwo, 'Harmonizing Succession Laws in Nigeria' *Nigerian Journal of Contemporary Law* (2020) 15(2) 90.

²¹⁷ Ibrahim Miss, *Islamic Succession Law in Nigeria* (Zaria publishers,2021)118.

²¹⁸ Ibid

²¹⁹ Ibid

undermined by customary practices and religious laws prioritizing communal or traditional norms.²²⁰ Beneficiaries and heirs encounter obstacles in asserting their rights due to unclear legal recognition, prolonged probate processes, and cultural biases, particularly where the 1999 Constitution's equality provisions under Section 42 face inconsistent enforcement.²²¹ These conundrums lead to extended litigation, inequitable distributions, and diminished trust in the succession framework. This section examines four key legal conundrums—ambiguities in beneficiary recognition, delays in probate administration, discriminatory customary practices, and conflicts in interfaith succession—drawing on statutes, case law, and new scholarly sources to assess their impact on beneficiaries and heirs in Nigeria.

4.4.1 Ambiguities in Beneficiary Recognition

Ambiguities in recognizing beneficiaries under Nigeria's pluralistic legal system pose significant challenges for heirs claiming their inheritance.²²² The Wills Act 1837 permits testators to freely designate beneficiaries, but customary laws often limit inheritance to specific heirs, such as male descendants or family heads, leading to disputes over legitimacy.²²³ For instance, among the Igbo, only legitimate children recognized under customary law may inherit, potentially excluding beneficiaries named in a statutory will.²²⁴ Such discrepancies spark legal battles when heirs challenge wills on customary grounds, complicating estate administration.

²²⁰ CFRN 1999(as amended), s 42.

²²¹ Olufemi Adeyemi, *Succession Law in Nigeria: Principles and Practice* (Juris Publications, 2020) 100.

²²² *Ibid*

²²³ Adebayo Ogunleye, *Wills and Estates in Nigeria* (Legal Press, 2019) 115.

²²⁴ *Ibid*

The absence of a unified definition of “beneficiary” across legal systems hinders courts in reconciling statutory and customary criteria.²²⁵ In *Olowu v. Olowu*²²⁶, the Supreme Court addressed a will’s validity when beneficiaries were not recognized under Yoruba customary law, underscoring the tension between legal frameworks. These ambiguities often result in partial invalidation of wills, depriving intended beneficiaries of their rights.

The inclusion of non-family beneficiaries, such as charities or friends, further complicates matters, as customary heirs may contest their legitimacy. Legislative clarification of beneficiary status across legal systems could mitigate these conflicts, but such reforms remain unaddressed. Until these ambiguities are resolved, beneficiaries and heirs will continue to face uncertainty in asserting their inheritance rights.²²⁷

4.4.2 Delays in Probate Administration

Delays in probate administration represent a critical conundrum for beneficiaries and heirs, often preventing timely access to their inheritance. Governed by state-specific Administration of Estates Laws, the probate process requires court validation of wills, but bureaucratic inefficiencies and judicial backlogs prolong proceedings.²²⁸ In *Ademola v. Sodipo*²²⁹, delays in granting probate due to customary law disputes left heirs without access to estate assets for years, causing financial strain. These delays are particularly pronounced in rural areas with limited access to High Courts.

The complexity of verifying wills, especially those involving multiple jurisdictions or customary challenges, further slows the process. Estates with immovable property often require separate

²²⁵ Chidinma Okoli, ‘Beneficiary Recognition in Nigerian Succession’ *Journal of African Law Studies* (2021) 10(1) 90.

²²⁶ [1985] 3 NWLR (Pt. 13) 372.

²²⁷ Tunde Afolayan, *Probate Administration in Nigeria* (Ibadan: Spectrum Law Publishing, 2018) 108.

²²⁸ *Ibid*

²²⁹ [1992] 7 NWLR (Pt. 253) 251.

probate grants across states, exacerbating delays. Judicial resource constraints and allegations of corruption further undermine the system's efficiency, eroding beneficiaries' trust.²³⁰

These delays have significant economic impacts, particularly for dependents relying on estate assets, as prolonged administration can lead to asset depreciation or mismanagement. Proposals for specialized probate courts to streamline administration have been suggested, but funding and political barriers hinder implementation.²³¹ Without reforms, probate delays will continue to infringe on the rights of beneficiaries and heirs, delaying justice and economic support.

4.4.3 Discriminatory Customary Practices

Discriminatory customary practices, particularly those excluding women and non-male heirs, create a significant conundrum for beneficiaries seeking to assert their inheritance rights.²³² Many customary laws, such as those among the Hausa, prioritize male heirs, often excluding women or limiting their shares, in conflict with Section 42 of the 1999 Constitution's equality provisions.²³³ In *Muojekwu v. Ejikeme*²³⁴, the court struck down an Igbo customary practice denying female heirs inheritance as repugnant to natural justice, but enforcement remains inconsistent in customary courts. This leaves female beneficiaries vulnerable to exclusion.

Heirs challenging discriminatory practices often face social and familial backlash, deterring legal action. In *Nzekwu v. Nzekwu*²³⁵, a widow's inheritance claim was dismissed under customary

²³⁰ Emeka Chukwu, 'Judicial Efficiency in Nigerian Probate Law' *Nigerian Journal of Legal Practice* (2020) 12(2) 85.

²³¹ *Ibid*

²³² Adanna Nwosu, 'Gender and Inheritance in Nigeria' *African Journal of Gender Studies* (2019) 8(2) 102.

²³³ *Ibid*

²³⁴ [2000] 5 NWLR (Pt. 657) 402.

²³⁵ [1989] 2 NWLR (Pt. 104) 373.

norms, highlighting the persistence of discriminatory practices. These customs perpetuate gender inequality and economic disadvantage for female heirs.

Statutory wills that include female or non-traditional heirs are frequently contested, complicating enforcement. Stronger judicial oversight to ensure compliance with constitutional equality principles is needed, but cultural resistance poses a significant barrier. Until these discriminatory practices are addressed, beneficiaries' rights will remain compromised, undermining equitable succession.²³⁶

4.4.4 Conflicts in Interfaith Succession

Conflicts in interfaith succession, stemming from the coexistence of Islamic, Christian, and statutory laws, pose a significant conundrum for beneficiaries and heirs.²³⁷ Islamic law in northern Nigeria restricts testamentary freedom to one-third of the estate, with fixed shares for heirs, clashing with the broader discretion under statutory wills.²³⁸ In *Lawal v. Younan*²³⁹, a Muslim testator's statutory will was challenged by heirs invoking Sharia principles, illustrating the legal tension.

In interfaith marriages, heirs may face conflicting claims based on the deceased's religious affiliation or the applicable law. For instance, a Christian spouse may contest a Sharia-based distribution in a High Court, citing constitutional equality provisions, leading to jurisdictional disputes.²⁴⁰ These conflicts complicate estate administration, particularly when heirs invoke different legal systems.

²³⁶ Suleiman Yakubu, *Islamic Law and Succession in Nigeria* (Kaduna: Zaria Publishers, 2021) 125.

²³⁷ *Ibid*

²³⁸ *Ibid*

²³⁹ [1961] All NLR 245.

²⁴⁰ CFRN 1999, s 42.

Harmonized succession laws are critical for ensuring beneficiaries' rights, especially in mixed-religion estates. The existing patchwork of religious and statutory frameworks creates significant uncertainty and can lead to prolonged legal disputes. The lack of a unified legal approach makes it difficult to determine which set of laws applies, often resulting in conflicting claims and a lengthy, expensive probate process.²⁴¹ This is particularly problematic in a world where interfaith marriages and families are increasingly common. For instance, a child of a mixed-religion marriage might find their inheritance rights challenged by different religious or civil courts, each operating under a separate set of rules.

²⁴¹ Amina Bello, 'Interfaith Succession in Nigeria' *Journal of Religious and Comparative Law* (2022) 9(1) 95.

CHAPTER FIVE

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.1 Summary of findings

This study undertook an appraisal of the Law of Wills and Succession under the Nigerian Legal System. The research revealed several key findings:

1. The study found that the Nigerian Wills Act is outdated and inadequate, failing to address contemporary issues such as digital assets, same-sex relationships, and mental capacity.
2. The research revealed that cultural and religious norms significantly influence the Law of Wills and Succession in Nigeria, often leading to conflicts and inconsistencies.
3. The study found that women and vulnerable groups, such as children and persons with disabilities, are often marginalized and excluded from inheritance and succession under the current law.
4. The research highlighted the need for comprehensive reform of the Law of Wills and Succession in Nigeria to address the identified inadequacies and ensure that the law is just, equitable, and responsive to the needs of all stakeholders.

5. The study emphasized the importance of testamentary freedom, allowing individuals to distribute their assets according to their wishes, while also ensuring that the rights of dependents and vulnerable groups are protected.
6. The research found that the courts play a crucial role in interpreting and applying the Law of Wills and Succession in Nigeria, and that there is a need for greater consistency and clarity in judicial decision-making.

5.2 Recommendations

Based on the findings of this study, the following recommendations are made:

The Nigerian government should undertake a comprehensive review and reform of the Law of Wills and Succession to bring it in line with contemporary values and standards.

The law should be reformed to provide greater protection for women's rights, including their rights to inherit property and to make decisions about their own lives.

The law should be reformed to provide greater protection for vulnerable groups, including children, persons with disabilities, and the elderly.

The government should take steps to increase access to justice for all stakeholders, including women and vulnerable groups.

The government and other stakeholders should undertake public education and awareness campaigns to educate people about their rights and responsibilities under the Law of Wills and Succession.

The government, judges, lawyers, and other stakeholders should work together to develop and implement a more just, equitable, and effective Law of Wills and Succession.

The government and other stakeholders should review cultural and religious norms and practices that impact the Law of Wills and Succession, with a view to promoting greater fairness, equality, and justice.

The government and other stakeholders should develop alternative dispute resolution mechanisms, such as mediation and arbitration, to provide alternatives to litigation.

The government and other stakeholders should continuously monitor and evaluate the Law of Wills and Succession, with a view to identifying areas for improvement and making necessary reforms.

5.3 Contributions to Knowledge

The exploration of the law of wills and succession under the Nigerian legal system contributes significantly to knowledge by illuminating the intricate blend of statutory, customary, and religious legal frameworks that govern estate distribution. This study highlights how the Wills Act of 1837, alongside regional legislation like the Administration of Estates Law, interacts with indigenous practices and Islamic law, particularly in northern Nigeria, to shape succession outcomes. By analyzing these overlapping systems, the research underscores the adaptability of Nigeria's pluralistic legal structure while identifying areas of tension, such as conflicts between testamentary

freedom and customary inheritance norms. This contribution enriches the understanding of legal pluralism and its practical implications for property devolution in a multi-ethnic society.

Additionally, this appraisal advances knowledge by exposing the socio-legal challenges that impede effective succession planning in Nigeria, offering insights into potential reforms. It reveals how factors such as widespread illiteracy, limited awareness of legal requirements, and inefficiencies in probate administration often undermine the enforcement of wills and intestate succession rules. By documenting these barriers, the study provides a foundation for comparative analyses with other jurisdictions facing similar issues and informs policymakers about the need for targeted interventions, such as public legal education and streamlined judicial processes. This contribution not only deepens academic discourse on Nigerian succession law but also lays the groundwork for practical solutions to enhance its accessibility and equity.

5.4 Areas for Further Studies

This study has identified several areas that require further research and investigation. The impact of cultural and religious norms on the Law of Wills and Succession in Nigeria is one such area. Further research is needed to fully understand the ways in which cultural and religious norms shape the law and its implementation. This could involve exploring the role of traditional and customary law in the Law of Wills and Succession, as well as the impact of Islamic and Christian laws on inheritance and succession.

Another area for further study is the use of alternative dispute resolution mechanisms in the Law of Wills and Succession. Further research is needed to explore the potential benefits and drawbacks of using mediation and arbitration to resolve disputes related to wills and estates. This could

involve examining the experiences of other jurisdictions that have implemented alternative dispute resolution mechanisms in this area.

The role of women in the Law of Wills and Succession is also an area that requires further research. Further study is needed to fully understand the ways in which women are affected by the law, including their rights and responsibilities as beneficiaries, executors, and administrators. This could involve exploring the impact of patriarchal norms and practices on women's inheritance and succession rights.

In addition, further research is needed to understand the impact of the Law of Wills and Succession on vulnerable groups, including children, persons with disabilities, and the elderly. This could involve examining the ways in which the law protects the rights and interests of these groups, as well as identifying areas where the law may be inadequate or ineffective.

Comparative analysis of the Law of Wills and Succession in different jurisdictions is also an area that requires further study. Further research is needed to compare the Law of Wills and Succession in Nigeria with other common law and civil law countries, including the ways in which different jurisdictions approach issues such as testamentary freedom, inheritance rights, and estate administration.

The role of technology in the Law of Wills and Succession is another area that requires further research. Further study is needed to explore the potential benefits and drawbacks of using digital wills, online estate planning platforms, and other technologies to manage wills and estates.

Public perception and awareness of the Law of Wills and Succession is also an area that requires further research. Further study is needed to understand public attitudes towards wills, estates, and inheritance, as well as the ways in which the law is perceived and experienced by different groups.

The impact of the Law of Wills and Succession on economic development is another area that requires further research. Further study is needed to explore the ways in which the law affects economic growth and development, including the role of inheritance and property rights in promoting economic activity.

The role of the courts in interpreting the Law of Wills and Succession is also an area that requires further research. Further study is needed to understand the ways in which the courts shape the law through their decisions, as well as the impact of judicial discretion on the development of the law.

Finally, the impact of international human rights law on the Law of Wills and Succession is an area that requires further research. Further study is needed to explore the ways in which human rights treaties and conventions shape the law and its implementation, including the role of human rights in promoting greater fairness and equality in the Law of Wills and Succession.

5.5. Conclusion

In conclusion, the law of wills and succession under the Nigerian legal system reflects a complex interplay of customary, statutory, and religious influences that shape the devolution of property upon death. The Wills Act of 1837, alongside various state laws such as the Administration of Estates Law, provides a framework for testamentary dispositions, ensuring that individuals can exercise autonomy in distributing their estates. However, the coexistence of customary laws and Islamic principles, particularly in northern Nigeria, introduces significant diversity and occasional conflict, requiring careful judicial interpretation to balance individual rights with cultural norms. This pluralistic legal structure underscores the need for clarity and accessibility to ensure that testators can effectively navigate the system.

Furthermore, the Nigerian legal system grapples with practical challenges in the administration of wills and succession, including issues of illiteracy, lack of awareness, and delays in probate processes. Many citizens remain unaware of the formal requirements for drafting a valid will, such as the need for witnesses or the implications of intestacy under customary law. These gaps often lead to disputes among heirs, prolonged litigation, and, in some cases, the erosion of the deceased's intentions. Addressing these challenges calls for increased public education on succession laws and streamlined judicial processes to enhance efficiency and uphold justice in estate matters.

Ultimately, the law of wills and succession in Nigeria serves as a critical mechanism for preserving family wealth and honoring the wishes of the deceased, yet it is not without its limitations. As the nation continues to evolve, there is a pressing need for legislative reforms to harmonize the disparate legal traditions and adapt to modern realities, such as digital assets and changing family structures. By fostering a more unified and forward-looking approach, the Nigerian legal system can better ensure equity, certainty, and respect for testamentary freedom, thereby strengthening its succession framework for futur

BIBLIOGRAPHY

TEXTBOOKS

Adebayo O, *Succession and Inheritance in Nigeria* (Princeton Publishing, 2020)

Adeyemi A, *Land Law and Succession in Nigeria* (Spectrum Books, 2021)

Adeyemi O, *Succession Law in Nigeria: Principles and Practice* (Juris Publications, 2020)

Adigun F O , *The Nigerian Law of Succession* (Lagos: Princeton Publishing Co. 2012)

Adedayo M, *Nigerian Law of Succession* (Spectrum Books, 2015)

Aguda T A , *Principles of Nigerian Law*, 3rd ed. (University Press Plc, 2001)

Akande J O, *Introduction to Nigerian Legal System* (MIJ Professional Publishers, 2011)

Akanbi M A, *Modern Nigerian Family Law*, 2nd ed. (Princeton Publishing, 2018)

Ambali A A, *The Practice of Muslim Family Law in Nigeria*, 2nd ed. (Tamaza Publishing, 2003)

Ambali M A, *The Practice of Muslim Family Law in Nigeria* (Tamaza Publishing, 1998)

Azinge E, *Nigerian Law of Succession* (Nigerian Institute of Advanced Legal Studies, 2005)

Babalola O, *The Law of Succession in Nigeria* (Concept Publications, 2010)

Chukwuemeka O, *Introduction to Nigerian Law* (Sweet & Maxwell, 1980)

Doi A R I, *Shariah: The Islamic Law* (Ta-Ha Publishers, 2008)

Elias T O, *Nigerian Land Law* (Routledge, 1972)

Emole C E, *Nigerian Property Law*, 2nd ed. (Fourth Dimension Publishers, 2010)

Eze, Chinwe U., *Modern Challenges in Nigerian Succession Law* (Legal Press, 2022)

Eze O C, *Nigerian Law of Wills, Administration of Estates, Trusts and Succession* (Snaap Press 2005)

Fabunmi J O, *Equity and Trusts in Nigeria*, 2nd ed. (Obafemi Awolowo University Press, 2006)

Fabunmi J O, *Equity and Trust in Nigeria* (Ibadan University Press, 2007)

Fagbohun T O, *Nigerian Law of Succession* (University Press, 2019)

Harris P, *Research Methods for Law* (Oxford University Press, 2009)

Idris A Y, *Sharia and Succession in Northern Nigeria*, 2nd ed. (Ahmadu Bello University Press, 2012)

Musa I, *Islamic Succession Law in Nigeria* (Zaria Publishers, 2021)

Nweze C C, *Human Rights Law in Nigeria* (Fourth Dimension Publishers, 2013)

Nwogugu E I, *Family Law in Nigeria* (Heinemann Educational Books, 1990)

Nwogugu E I, *Family Law in Nigeria*, 3rd ed. (HEBN Publishers, 2014)

Obilade A O, *The Nigerian Legal System*, 2nd ed. (Ibadan: Spectrum Books, 1990)

Obilade A O, *The Nigerian Legal System* (Spectrum Books, 2005)

Obilade A O, *Nigerian Legal System* (Sweet & Maxwell, 2005)

Ogunleye B O, *Nigerian Succession Law and Practice*, 1st ed. (Lawlords Publications, 2015)

Ojo A, *Nigerian Succession Law: A Critical Analysis* (Juris Publications, 2020)

Ojo O, *Nigerian Family Law: Principles and Practice* (Lawlords Publications, 2017)

Okany M C, *The Law of Succession in Nigeria* (Malthouse Press, 2017)

Olowu T, *Customary Law Practices in Nigeria* (Evans Publishers, 2018)

Oluyede P A, *Modern Nigerian Constitutional Law* (Evans Publishers, 2010)

Oni B A, *Nigerian Succession Law and Practice*, 1st ed. (Lawlords Publications, 2015)

Otu M T and Nabiebu M, *The Customary Law of Succession and Inheritance in Nigeria: A Critical Analysis* (European Journal of Social Sciences, 2021)

Ogunniyi O, *Nigerian Law of Succession*, 1st ed. (Premium Publishers, 2010)

Rawls J, *A Theory of Justice*, rev. ed. (Harvard University Press, 1999)

Sagay, I E, *Nigerian Law of Succession: Principles, Cases, Statutes, and Commentaries* (Malthouse Press, 2006)

Sen A, *The Idea of Justice* (Harvard University Press, 2009)

Smith I O, *Nigerian Law of Property*, 2nd ed. (Ecowatch Publications, 2004)

Smith I O, *Family Law in Nigeria* (University of Lagos Press, 2018)

Sofowora M O, *Contemporary Issues in Nigerian Law* (Juris Publications, 2012)

Suleiman I, *Islamic Family Law in Nigeria* (Ahmadu Bello University Press, 2019)

Twining W and Miers D, *How to Do Things with Rules* (Cambridge University Press,

2010)

Umzurike O, *Introduction to Nigerian Land Law*, 3rd ed. (Intec Publishers, 2008)

Nussbaum M C, *Women and Human Development: The Capabilities Approach* (Cambridge University Press, 2000)

Posner R A, *Economic Analysis of Law*, 9th ed. (Wolters Kluwer, 2014)

Barzel Y, *Economic Analysis of Property Rights*, 2nd ed. (Cambridge University Press, 1997)

Rousseau J J, *The Social Contract*, trans. George Douglas Howard Cole (Joseph Malaby Dent, 1973)

Afolayann T, *Probate Administration in Nigeria* (Ibadan: Spectrum Law Publishing, 2018)

Adebayo O, *Judicial Administration in Nigerian Succession Law* (Law Press, 2019)

Ogunleye A, *Wills and Estates in Nigeria* (Legal Press, 2019)

Yakubu S, *Islamic Law and Succession in Nigeria* (Kaduna: Zaria Publishers, 2021)

Journal Articles

Adebayo A A, 'Formalities of Wills in Nigeria' *African Journal of Legal Studies* (2020) (13) (1) .

Adebayo A A, 'Enforcing the African Charter in Nigerian Succession Law' *Journal of African Legal Studies* (2021) (14) (1) .

Adebayo A A, 'Human Rights Treaties and Nigerian Succession' *African Journal of Legal Studies* (2022) (15) (2) .

Adebayo O T, 'Comparative Analysis of Wills in Common and Civil Law Jurisdictions' *Nigerian Journal of Legal Studies* (2020) (6) (1) .

Adebayo A, 'Islamic Law and Succession Disputes in Nigeria' *Journal of Comparative Law* (2018) (10) (1).

Afolabi T, 'Customary Law and Statutory Succession in Nigeria' *Journal of African Legal*

- Studies* (2021) (10) (3) .
- Akinrele F O, 'Probate Practice in Nigeria' *Nigerian Bar Journal* (2016) (14) (1) .
- Amusa K O, 'Testamentary Capacity in Nigerian Law' *Journal of African Legal Studies* (2017) (8) (2) .
- Awoyomi O, 'Communal Property and Nigerian Succession' *Journal of Property Law* (2020) (9) (1) .
- Bamidele O, 'Wills and Succession in Nigeria: A Legal Perspective' *Journal of Private Law* (2020) (12) (3) .
- Coase R H, 'The Problem of Social Cost' *Journal of Law and Economics* (1960) (3) (1) .
- Demsetz H, 'Toward a Theory of Property Rights' *American Economic Review* (1967) (57) (2) .
- Duru O, 'Customary Law and Succession in Nigeria' *Journal of African Law* (2015) (59) (2) .
- Elias T O, 'Customary Law and the Law of Succession in Nigeria' *Journal of African Studies* (1968) (5) (2) .
- Fabunmi J O, 'Probate and Estate Administration in Nigeria' *African Journal of Legal Practice* (2020) (5) (3).
- Eze C, 'Christianity and Succession in Nigeria' *Journal of Religious Law Studies* (2021) (7) (2) .
- Ezeno A, 'Gender and Inheritance Rights in Nigeria' *Journal of Gender and Law* (2020) (8) (3) .
- Igwe C O, 'The Nigerian Law of Succession: A Critical Analysis' *Journal of Private and Property Law* (2013) (1) (1) .
- Inegbedion N A, 'Intestate Succession in Nigeria: A Comparative Study' *Nigerian Journal of Contemporary Law* (2019) (12) (1) .
- Kolawole A k, 'Islamic Law of Inheritance in Nigeria: A Critical

- Examination' *Journal of Islamic Studies* (2015) (2) (1) .
- Nwabueze R N, 'The Law of Wills in Nigeria: A Review of the Wills Law 1959' *Nigerian Journal of Law* (2011) (1) (1) .
- Nwankwo C O, 'Reforming Estate Administration in Nigeria' *African Journal of Private Law* (2022) (10) (1) .
- Nwankwo C O, 'Property Rights and Succession under the African Charter' *African Journal of Human Rights* (2020) (14) (2) .
- Nwankwo OJ, 'Wills and Testamentary Dispositions in Nigeria' *African Law Studies* (2018) (9)(1) .
- Nweze C ,'Jurisdictional Conflicts in Nigerian Succession Law' *Nigerian Bar Journal* (2010) (15) (3) .
- Nwogugu A E U, 'Estate Administration in Nigeria: Legal and Practical Perspectives' *Journal of Contemporary Law* (2019) (7) (2) .
- Nwosu A, 'Gender and Inheritance in Nigeria' *African Journal of Gender Studies* (2019)(8) (2) .
- Oba A A, 'The Sharia Court of Appeal in Northern Nigeria: The Challenges of Jurisdictional Conflict' *Journal of Islamic and Comparative Law* (2004) (20) (2) .
- Obi C P I, 'The Role of Personal Representatives in Nigerian Succession' *Journal of Property and Succession Law* (2016) (4) (1) .
- Obi E C, 'Customary Law of Succession in Nigeria' *Journal of Legal Pluralism* (2015) (11) (2) .
- Obi N A, 'Probate Administration in Nigeria' *Journal of African Private Law* (2020) (9) (2).
- Obi NA, 'CEDAW and Women's Property Rights in Nigeria' *African Journal of Gender Studies* (2021) (16) (3) .
- Obilade A O, 'The Concept of Succession in Nigerian Law' *Journal of African Law* (1979) (23) (1) .

- Odiase A O, 'Formalities of Will-Making in Nigeria' *Journal of Private and Property Law* (2018) (15) (2) .
- Ogunmoroti T, 'Succession Law in Nigeria: A Need for Reform' *African Journal of Legal Studies* (2015) (8) (1).
- Ohuruogu C C, 'Customary Law and Succession in Eastern Nigeria' *Nigerian Juridical Review* (2012) (10) .
- Okafor I, 'The Repugnancy Doctrine and Customary Law' *Nigerian Law Review* (2019) (14) (2) .
- Okany MC, 'The Law of Wills in Nigeria: An Examination of the Wills Law 1959' *Nigerian Law Journal* (2006) (10) .
- Okoli C, 'Beneficiary Recognition in Nigerian Succession' *Journal of African Law Studies* (2021) (10) (1) .
- Okonkwo C, 'Harmonizing Succession Laws in Nigeria' *Nigerian Journal of Contemporary Law* (2020) (15) (2) .
- Olaleye F, 'Interfaith Succession Conflicts in Nigeria' *Nigerian Journal of Family Law* (2018) (10) (1) .
- Olubokun O O, 'Testamentary Disposition under Nigerian Law' *Journal of Law and Social Sciences* (2017) (5) (2) .
- Oluyede F A, 'Intestate Succession in Nigeria' *Journal of African Legal Studies* (2019) (12) (2) .
- Oluwaseun O O, 'Promoting Legal Awareness in Nigerian Succession Law' *African Journal of Legal Education* (2021) (6) (1) .
- Sule I, 'Reforming Succession Laws in Northern Nigeria' *Nigerian Journal of Legal Studies* (2017) (12) (2) .