

Gender Assessment, Reparative Justice, and Women's Land Rights in Africa: Comparative Evidence from South Sudan and Nigeria

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Abstract

This paper examines how gender assessment can function as a reparative justice instrument for addressing historical injustices in land governance, using South Sudan and Nigeria as comparative case studies. It argues that women's exclusion from land ownership, control, and inheritance is not merely a technical policy failure but a historically produced form of structural inequality rooted in colonial legacies, patriarchal customary systems, and weak enforcement of gender-responsive laws. Drawing on feminist theory, intersectionality, and legal pluralism, the study analyses how formal legal equality often coexists with persistent discriminatory practices that undermine women's land rights in both contexts. In South Sudan, post-conflict instability, displacement, and fragile institutions deepen women's tenure insecurity, especially for widows, returnees, and female-headed households. In Nigeria, legal pluralism, customary patriarchy, and unequal access to land administration continue to constrain women's property rights despite statutory reforms. The paper contends that gender assessment should move beyond diagnostic compliance toward a reparative framework centered on recognition, redistribution, restitution, representation, and transformation. It concludes that meaningful land justice in Africa requires not only legal reform, but also institutional accountability, community-level norm change, and gender-responsive governance.

Keywords: Gender Assessment Approach, History, Injustice South Sudan and Nigeria.

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1. INTRODUCTION

Across Sub-Saharan Africa, women's land rights remain structurally constrained despite decades of statutory reform, constitutional equality provisions, and international gender commitments. While many states formally recognise women's rights to own, inherit, and control land, implementation failures persist because legal reforms often coexist with deeply entrenched patriarchal customary systems, weak institutional enforcement, and socioeconomic inequalities that systematically marginalise women in practice (Agarwal, 1994; Meinzen-Dick & Pradhan, 2002; Djurfeldt, 2020). Consequently, gender inequality in land governance is not simply a matter of legal omission but reflects historically embedded systems of exclusion that continue to shape access to productive resources, economic security, and political power.

This paper argues that gender assessment should not remain a diagnostic or compliance-based policy tool. Rather, it must function as a reparative governance instrument capable of exposing historical injustice, guiding redistribution, and transforming inequitable land institutions. A reparative framework moves beyond identifying disparities to addressing the structural roots of gendered dispossession through institutional reform, restitution, and inclusive governance (Fraser, 2009; UN Women, 2023). Such an approach is particularly critical in contexts where women's exclusion is reinforced not only through discriminatory norms but also through conflict, environmental degradation, and state fragility.

South Sudan and Nigeria provide distinct yet complementary comparative cases for examining these dynamics. In South Sudan, women's land dispossession is intensified by armed conflict, displacement, weak state

institutions, and fragile post-conflict governance structures (Deng, 2013; Bazugba, 2024). In Nigeria, gender inequality in land rights persists through legal pluralism, patriarchal customary tenure systems, elite capture, and environmental injustice—particularly in regions such as the Niger Delta, where women face exclusion not only from ownership but also from compensation regimes, ecological restoration, and climate resilience planning (Ajonye, 2020; Chigbu *et al.*, 2022). Together, these cases demonstrate that gender assessment is most effective when linked to reparative justice rather than procedural compliance alone. By repositioning gender assessment as a transformative governance mechanism, this study contributes to broader debates on land reform, gender justice, and sustainable development.

1.1 Background of the Study

This paper argues that gender assessment in land governance must move beyond a diagnostic or compliance-orientated function and be reconceptualised as a reparative governance instrument. Rather than merely identifying inequality, gender assessment should expose historical injustice, guide redistribution and restitution, and transform the institutional and socio-cultural structures that sustain women's exclusion from land. Through a comparative analysis of South Sudan and Nigeria, the study demonstrates that gendered land injustice is reproduced through distinct but intersecting pathways, including post-conflict fragility, legal pluralism, customary patriarchy, and environmental inequality (Almeida and Ubink 2024). In both contexts, land plays a crucial role not only in economic survival but also in identity, social belonging, political authority, and intergenerational wealth transfer. Yet women continue to face systematic exclusion from ownership, inheritance, and control despite formal guarantees of equality, reflecting the enduring effects of colonial dispossession, postcolonial restructuring, and patriarchal norms (Tsikata, 2015; Lawry, 2014; Whitehead & Tsikata, 2001; van den Bold, 2015).

In South Sudan and Nigeria alike, land governance operates through legally plural systems in which statutory and customary institutions coexist, often in tension. While statutory frameworks frequently endorse gender equality, customary systems continue to privilege male authority in land ownership, inheritance, and dispute resolution. Consequently, women's access to land is commonly mediated through marriage, lineage, or male relatives rather than recognised as an autonomous right (Whitehead & Tsikata, 2001; Bullock & Kariuki, 2019; Chigbu, 2019). This demonstrates that gender inequality in land governance is not incidental but structurally embedded within institutional arrangements and social power relations. Feminist scholarship further situates land exclusion within broader systems of domination, emphasising that land governance is deeply connected to questions of power, subjectivity, and social

hierarchy (Connell, 2022; Fredman, 2016; Tamale, 2020; Mama, 1995). Gender assessment must therefore be understood not only as a technical exercise but also as part of a wider reparative framework grounded in recognition, redistribution, restitution, representation, and transformation.

South Sudan provides a critical post-conflict context in which violence, displacement, and fragile state institutions have intensified women's vulnerability to dispossession. Widows, returnees, internally displaced persons, and female-headed households encounter persistent barriers arising from customary inheritance systems, weak enforcement mechanisms, and limited legal awareness (Erickson & Faria, 2011; Hove & Ndawana, 2017; Genicot & Hernández-de-Benito, 2022; Almeida & Ubink, 2024). Although constitutional and statutory provisions formally recognise equality in land and property rights, implementation remains constrained by the dominance of customary authority and weak land institutions. Emerging scholarship further links women's land rights in South Sudan to transformational leadership, institutional reform, and climate resilience (Bazugba, 2024, 2025). Nigeria, by contrast, illustrates how gender inequality persists within a more institutionally established environment through the interaction of statutory law, customary tenure, patriarchal inheritance systems, and uneven governance. Women's land access remains conditional and secondary despite formally gender-neutral legal frameworks, as customary norms continue to privilege men as custodians and decision-makers over family land (Ikejiiofor, 2006; Chigbu, 2019; van den Bold, 2015). Contemporary analyses also connect these inequalities to broader debates on urban displacement, jurisprudence, and reparative claims (Adebayo, 2026; Ajiboye, 2025; Umukoro *et al.*, 2024).

The comparative significance of South Sudan and Nigeria lies in how they reveal different structural pathways through which gendered land injustice is reproduced. South Sudan highlights the relationship between land insecurity, displacement, peacebuilding, and post-conflict reconstruction, whereas Nigeria demonstrates the persistence of exclusion within a more stable yet deeply patriarchal and legally plural system. Across both cases, the central insight remains that formal legal equality does not automatically produce substantive justice. Gender assessment therefore becomes a crucial analytical and policy mechanism for exposing the gap between rights in principle and rights in practice, while also revealing the limits of legal reform, where institutional cultures, social norms, and power relations remain unchanged (FAO, 2022; UN Women, 2022; Deininger & Goyal, 2024). Regional and national initiatives, including the IGAD women's land rights agenda and South Sudanese land policy reforms, increasingly acknowledge the need for inclusive land governance, although implementation gaps persist

(IGAD, 2021, 2022; FAO, 2024, 2025). By integrating feminist theory, intersectionality, and legal pluralism, this study advances debates on reparative governance in Africa, arguing that gender-responsive land reform must be both legally grounded and socially transformative (Balas *et al.*, 2022; Bazugba, 2024, 2025; Ogada *et al.*, 2022; UN Women, 2022).

1.2 Problem Statement

Despite progressive constitutional, statutory, and policy provisions recognizing women's rights to land, women in South Sudan and Nigeria continue to experience persistent exclusion from ownership, control, inheritance, and participation in land governance. This contradiction reflects a deeper structural problem: formal legal equality has not dismantled the patriarchal, customary, and institutional systems that continue to regulate land in ways that disadvantage women (Whitehead & Tsikata, 2001; Bullock & Kariuki, 2019; Chigbu, 2019). In both countries, women's land rights remain mediated through marriage, male lineage, and community authority, rather than secured as independent entitlements, which perpetuates inequality across generations (van den Bold *et al.*, 2013; Tsikata, 2015; UN Women, 2022).

In South Sudan, this problem is intensified by conflict, displacement, fragile institutions, and the dominance of customary authorities in land administration. Widows, returnees, internally displaced women, and female-headed households face especially high risks of dispossession, often without effective legal remedy or institutional protection (Erickson & Faria, 2011; Hove & Ndawana, 2017; Almeida & Ubink, 2024; Bazugba, 2024, 2025). In Nigeria, the problem persists through legal pluralism, patriarchal inheritance systems, and uneven implementation of land policies, leaving women's claims to land vulnerable to customary interpretation and social exclusion (Ikejiofor, 2006; Chigbu, 2019; Nwapi, 2016; Umukoro *et al.*, 2024). The central problem addressed in this study is therefore the persistent gap between formal recognition of women's land rights and the lived realities of gendered exclusion in land governance.

1.3 Research Objectives

The main objective of the study is to examine how gender assessment can be used to redress historical injustice and advance reparative justice in land governance in South Sudan and Nigeria.

The Specific Objectives are to:

- i. To examine the main factors that have contributed to women's exclusion from land ownership and control in South Sudan and Nigeria.
- ii. To assess how legal pluralism, customary authority, and intersectional realities shape women's access to land in both contexts.

- iii. To explore how gender assessment can identify barriers and support reparative justice for more equitable land governance

1.4 Significance of the Study

This study contributes to scholarship on gender, land, and reparative justice by moving beyond descriptive accounts of inequality to demonstrate how women's land exclusion is historically produced and institutionally reproduced (Tamale, 2020; Fredman, 2016; Balas *et al.*, 2022). By linking gender assessment to reparative justice, it advances African feminist and critical land governance debates, arguing that substantive equality requires more than formal legal recognition. The study also holds significant policy relevance for South Sudan, Nigeria, and similar African contexts. In South Sudan, where land reform and women's land rights remain central to peacebuilding and reconstruction, the findings can inform gender-responsive land policies, institutional reform, and implementation frameworks (Almeida & Ubink, 2024; Bazugba, 2024, 2025; IGAD, 2021, 2022). In Nigeria, the study contributes to ongoing efforts to harmonise statutory and customary land systems, strengthen access to justice, and improve women's rights to ownership and inheritance (Ikejiofor, 2006; Chigbu, 2019; Adebayo, 2026).

The study further provides practical value for government agencies, civil society organisations, regional institutions, and development partners engaged in gender equality, land management, and social justice. Its reconceptualisation of gender assessment as a transformative and reparative tool can support more inclusive programming, evidence-based land reform, and institutional change, while reframing women's land rights as not only a legal concern but also a matter of historical redress and democratic governance (FAO, 2022, 2024; UN Women, 2022; Ogada *et al.*, 2022). In doing so, the study offers a framework for advancing substantive and reparative transformation in land governance across Africa.

2. LITERATURE REVIEW

2.1 Gender Assessment and Historical Injustice in African Land Governance

Gender assessment has emerged as an important interdisciplinary approach for understanding and addressing historical injustice in Africa's land sector. It brings together feminist political economy, transitional justice, decolonial scholarship, and land governance analysis to show that women's land exclusion is not simply a technical policy problem, but a structural outcome of historically unequal power relations. Across much of Africa, colonial and postcolonial land systems institutionalized gendered exclusion by converting flexible tenure arrangements into more rigid, patriarchal regimes, often reinforced by statutory law, market-oriented reform, and state-centered

control over land administration (van den Bold, 2015; Ilumoka, 2012; Tsikata, 2015; Balas *et al.*, 2022).

In this context, gender assessment is increasingly used not only to diagnose inequality, but also to identify the institutional and normative conditions that reproduce it. Recent policy and legal assessments in South Sudan, for example, show that even where land laws formally recognize women's rights, implementation remains weak because customary leaders, local institutions, and administrative practices do not consistently operationalize those rights (FAO, 2025; IGAD, 2021, 2022; Government of the Republic of South Sudan, 2009, 2011). Similarly, African land governance literature has increasingly emphasized that historical injustice in land is both material and symbolic, requiring reparative responses that go beyond formal equality to address dispossession, exclusion, and intergenerational disadvantage (Adebayo, 2026; Almeida & Ubink, 2024; UN Women, 2022).

2.2 Customary Authority, Legal Pluralism, and Institutional Barriers

A major theme in the literature is that women's exclusion from land is sustained through the interaction of customary authority, legal pluralism, and weak institutional accountability. In many African settings, statutory law guarantees equality, yet customary and informal systems continue to shape actual access to land, inheritance, and dispute resolution. This pattern is especially visible in patriarchal customary systems, where women are often recognized as users rather than full owners, and where land rights are mediated through fathers, husbands, or male kin (Whitehead & Tsikata, 2001; Chigbu, 2019; Amanor, 2008). Studies on Nigeria show that the Land Use Act and associated governance structures have not dismantled male-dominated tenure systems, because local practice continues to privilege male lineage authority and customary gatekeeping over women's independent claims (Ikejiiofor, 2006; Nwapi, 2016; Aluko & Amidu, 2017; Umukoro *et al.*, 2024). This literature is important because it demonstrates that land inequality persists not merely due to insufficient legal reform, but because reform has often been implemented without disrupting the social and institutional norms that regulate access to property. The implication is that gender assessment must move beyond identifying gaps in law to interrogating the relational power structures that determine how land rights are interpreted and enforced (Fredman, 2016; Connell, 2022).

2.3 Gendered Land Injustice in South Sudan

Literature on South Sudan demonstrates that gendered land injustice is shaped not only by patriarchal customary systems but also by protracted conflict, mass displacement, fragile institutions, and incomplete state formation. Although the South Sudan Land Act of 2009 and the Transitional Constitution of 2011 formally

guarantee women's rights to land ownership, inheritance, and participation in governance, implementation remains weak due to fragmented governance, limited institutional capacity, and the continued dominance of customary authorities. The Transitional Constitution, together with the Judiciary Act of 2008 and the Judicial Service Council Act of 2008, establishes the hierarchy of statutory courts within a dual legal system recognising both statutory and customary institutions. In practice, however, statutory enforcement remains limited, particularly in rural areas where most land disputes occur. Consequently, customary systems—viewed as more accessible, legitimate, and efficient—continue to dominate dispute resolution and land administration, adjudicating nearly 80 per cent of civil and criminal cases (Deng, 2013). While customary mechanisms are valued for restoring social harmony and flexibility in multiethnic contexts (Leonard *et al.*, 2010), they frequently reinforce patriarchal norms that undermine women's rights and perpetuate the gap between “law on paper” and “law in practice” (Government of the Republic of South Sudan, 2009, 2011; IGAD, 2021; FAO, 2025).

This legal–customary disconnect has produced a context in which women's statutory rights exist formally but are routinely constrained by patriarchal clan structures, male-dominated customary courts, and socio-political instability (Erickson & Faria, 2011; Hove & Ndawana, 2017). As in many post-conflict societies, formal equality has failed to translate into substantive justice because institutions responsible for implementation remain weakened by conflict legacies and limited state reach (Hessbruegge, 2012; Santschi, 2010), which exacerbates the challenges women face in accessing their rights and achieving justice in land ownership and inheritance matters. Conflict and displacement are particularly central to understanding women's land insecurity in South Sudan. Civil war, refugee return, forced migration, and communal violence have generated overlapping land claims and widespread dispossession affecting widows, displaced individuals, and returnees (Justin and Leeuwen, 2016; Almeida & Ubink, 2024; Ogada *et al.*, 2022; Emeasoba, 2024). Widows are especially vulnerable because customary inheritance systems often permit male relatives to reclaim family land, leaving women landless despite constitutional guarantees (Bazugba, 2024). Displaced women also frequently lack documentation, legal resources, or community recognition to reclaim ancestral or marital land, creating what Hove and Ndawana (2017) describe as layered tenure precarity. These dynamics illustrate how land injustice in South Sudan emerges through the intersection of patriarchy, displacement, weakened citizenship, and post-war insecurity (Justin and Leeuwen, 2016).

Recent scholarship increasingly situates women's land rights within broader frameworks of

peacebuilding, climate adaptation, and post-conflict reconstruction. Land is understood not only as an economic asset but also as essential to livelihood recovery, food security, social reintegration, and political stability (FAO, 2025; Bazugba, 2025). As climate stress intensifies competition over land and water, gendered exclusion from land access risks deepening socio-economic inequalities and reinforcing conflict vulnerability (Ogada *et al.*, 2022). Emerging policy-orientated research therefore advocates integrating women's land justice into governance reform and national peacebuilding agendas rather than treating it solely as a legal rights issue. Nevertheless, much of the literature remains primarily diagnostic, focusing on documenting exclusion rather than developing reparative mechanisms for addressing historical injustice. As Bazugba (2025) and Almeida and Ubink (2024) observe, frameworks linking gendered land injustice to reparative justice, restitution, and institutional accountability remain underdeveloped. South Sudan thus represents not simply a case of weak legal enforcement but a complex setting in which conflict, displacement, customary patriarchy, and fragile state-building processes collectively reproduce structural land inequality.

Existing scholarship on women's land rights has extensively examined legal pluralism, inheritance discrimination, barriers to registration, and the implementation gap between statutory protections and customary practice (Agarwal, 1994; Whitehead & Tsikata, 2003; Deininger *et al.*, 2014; Djurfeldt, 2020; Fredrick *et al.*, 2025). However, three major gaps remain. First, gender assessment is still largely treated as a diagnostic framework rather than a reparative governance instrument capable of restructuring unjust institutions. Second, comparative research often treats conflict-related dispossession in South Sudan and environmental and compensation injustices in Nigeria as separate issues, rather than connecting them within a unified framework of transformative land justice. Third, insufficient attention has been given to how climate vulnerability, ecological degradation, and resource extraction intersect with women's land rights in institutionally unequal and resource-rich contexts such as the Niger Delta. By integrating gender assessment with reparative justice theory and comparative institutional analysis, this paper argues that meaningful gender equity in land governance requires not merely formal equality, but structural transformation of the institutions that sustain exclusion.

2.4 Gender and Land Injustice in Nigeria

Nigeria demonstrates with particular clarity how formal legal equality can coexist with substantive exclusion. Although statutory frameworks such as the Land Use Act (1978) and constitutional guarantees prohibit gender discrimination, women's land rights remain constrained by the interaction of patriarchal customary norms, administrative systems, and unequal

access to financial, legal, and political resources. Male relatives and male-dominated customary institutions frequently mediate women's access to land, resulting in insecure and derivative tenure despite formal protections. This indicates that gender injustice in Nigeria stems less from legislative absence than from structural disconnections between formal law, governance practices, and broader political-economic systems (Ikejiiofor, 2006; Nwapi, 2016; Ezeilo, 2021). Chigbu's (2019) concept of "tenure inequality" is particularly significant because it captures how exclusion is reproduced through legal pluralism, patriarchal lineage systems, and entrenched socio-cultural norms, illustrating that legal recognition alone cannot dismantle structural inequality.

The Nigerian case also broadens our understanding of women's land rights beyond ownership and inheritance by emphasising compensation, participation in governance, environmental justice, and climate vulnerability. In the Niger Delta, where land is deeply tied to extractive political economies, women are frequently excluded from compensation structures associated with land acquisition, oil extraction, and environmental degradation because payments are commonly directed to male household heads or customary authorities (Umukoro, Kore-Okiti, & Megbele, 2024). This exclusion denies women financial restitution and decision-making authority despite their reliance on land for subsistence agriculture, food security, and household survival. Studies further show that women's land insecurity undermines sustainable development, rural productivity, and poverty reduction, while ecological degradation disproportionately heightens women's exposure to climate and livelihood shocks (Uduji *et al.*, 2023; Adekunle *et al.*, 2024). Consequently, women's land injustice in Nigeria must be understood not only as a tenure issue but also as a question of distributive injustice, participatory exclusion, and environmental marginalisation linked to broader debates on climate justice and sustainable development.

Within the comparative framework of this paper, Nigeria is especially valuable because it reveals how gendered land injustice can persist within a relatively stable legal order through legal pluralism, customary patriarchy, and environmental inequality, unlike South Sudan, where exclusion is intensified primarily by war, displacement, and state fragility. The Nigerian experience demonstrates that gender injustice may be reproduced not only through institutional weakness but also through entrenched systems that formally recognise equality while substantively excluding women from meaningful access, governance, compensation, and reparative justice. By illustrating how exclusion operates across land ownership, resource governance, environmental harm, and climate resilience, Nigeria reinforces the paper's central argument that

gender assessment must move beyond compliance-orientated diagnosis toward becoming a reparative governance instrument capable of addressing historical injustice, redistributive inequality, and institutional transformation. Transformative land justice therefore requires confronting not only discriminatory laws but also the wider political, customary, and environmental structures that sustain women's exclusion.

2.5 Intersectionality and Reparative Justice in Land Governance

A further gap in the literature concerns the limited use of intersectionality in land governance analysis. Many studies speak broadly about "women" as a homogenous category, yet women's experiences of land exclusion vary by marital status, displacement, age, class, geographic location, and household structure. Intersectional theory is therefore essential for understanding why widows, internally displaced women, rural farmers, and female-headed households often face more severe land insecurity than urban, educated, or economically advantaged women (Crenshaw, 1989; Makhetha, 2024; Bazugba, 2025). In South Sudan, this matters because displacement and conflict have created especially vulnerable groups whose claims are difficult to prove in either customary or statutory systems (Erickson & Faria, 2011; Hove & Ndawana, 2017; Almeida & Ubink, 2024). In Nigeria, intersectionality helps explain why women in rural and customary settings remain more vulnerable than those who can access formal markets or legal services, and why environmental degradation in the Niger Delta intensifies their exclusion from compensation and land-related benefits (Uduji *et al.*, 2023; Ogada *et al.*, 2022; Umukoro *et al.*, 2024). Recent work on land policy and equitable growth in Africa also underscores the importance of differentiated policy responses rather than generic gender mainstreaming, especially where structural inequalities are deeply embedded (Deininger & Goyal, 2024; FAO, 2025). This suggests that effective gender assessment must be sensitive to layered forms of disadvantage rather than treating all women's land experiences as equivalent.

The reparative justice dimension of the literature remains underdeveloped, even though it is central to understanding why gender assessment matters. Reparative justice requires more than recognition of discrimination; it demands restitution, redistribution, and transformation of the institutions that produced historical harm. In the land sector, this means addressing the cumulative effects of colonial legal engineering, patriarchy, and postcolonial governance failure, rather than only correcting current procedural inequalities (Ilumoka, 2012; van den Bold, 2015; Adebayo, 2026). This point is especially relevant in South Sudan, where recent policy developments show an emerging commitment to women's land rights through legal assessment, quota provisions, and a more inclusive

National Land Policy process, but where implementation mechanisms remain limited and uneven (FAO, 2025; IGAD, 2021, 2022; Government of the Republic of South Sudan, 2009, 2011). It is equally relevant in Nigeria, where the existence of constitutional protections has not translated into substantive equality because discriminatory customs and institutional practices continue to shape outcomes (Fredman, 2016; Nwapi, 2016; Umukoro *et al.*, 2024). Thus, gender assessment should be understood as a policy instrument that can support reparative land governance by generating evidence for land redistribution, affirmative titling, joint spousal consent, inheritance reform, and women's meaningful inclusion in land institutions.

2.6 Comparative Insights and Policy Implications

Comparatively, South Sudan and Nigeria show that gender assessment is most effective when used as a transformative, policy-oriented, and historically grounded tool rather than a narrow compliance mechanism. In South Sudan, the main challenge is post-conflict reconstruction under fragile governance, where institutional weakness and customary authority continue to limit the effectiveness of progressive legal frameworks (Almeida & Ubink, 2024; Bazugba, 2024, 2025; FAO, 2025). In Nigeria, the challenge lies in legal pluralism, entrenched patriarchy, and uneven judicial and administrative enforcement, which together sustain women's marginalization despite formal equality provisions (Ikejiiofor, 2006; Chigbu, 2019; Adebayo, 2026). Across both contexts, the literature points to the need for gender-disaggregated land data, community-based tenure mapping, participatory governance, restitution for dispossessed women, and institutional reforms that bring customary and statutory systems into closer alignment with equality norms (Balas *et al.*, 2022; IGAD, 2021, 2022; UN Women, 2022). What remains missing, however, is a fully integrated comparative account that links these empirical realities to reparative justice and policy design. This study addresses that gap by showing how gender assessment can move from diagnosis to action, and from formal equality to structural transformation.

Despite the growing body of scholarship on gender and land governance in Africa, three important gaps remain. First, much of the literature treats gender assessment as a descriptive or technical exercise, concentrating on documenting disparities rather than using findings to support structural transformation or reparative justice. Second, many studies examine countries separately, with relatively little comparative work showing how different governance settings can produce similar forms of exclusion through distinct mechanisms. Third, emerging concerns such as environmental justice, climate vulnerability, and compensation regimes are still insufficiently integrated into analyses of women's land rights, especially in resource-dependent settings such as Nigeria. This paper

addresses these gaps by developing a comparative and theoretically grounded framework that links gender assessment to reparative governance and situates land inequality within broader political, environmental, and institutional dynamics.

2.7 Theoretical and Conceptual Framework

2.7.1 Feminist Theory and Land Rights

Feminist theory provides a central framework for understanding gender inequality in land governance by showing that land is not merely a legal or economic asset but also a site through which power, identity, and domination are reproduced. Women's exclusion from land ownership therefore reflects broader patriarchal systems shaping access to resources, labour, and decision-making (Connell, 2022; Fredman, 2016). Liberal feminist approaches emphasise legal equality and the removal of discriminatory laws, a position reflected in constitutional and statutory guarantees of non-discrimination in South Sudan and Nigeria, including the Transitional Constitution of South Sudan (2011). However, evidence demonstrates that formal equality has not produced substantive equality because customary norms and institutional practices continue to restrict women's effective access to land (Genicot & Hernandez-de-Benito, 2022; van den Bold, 2015). Radical feminist perspectives further interpret land inequality as a mechanism of patriarchal control that reinforces women's economic dependence and gender hierarchies. In Nigeria, women's reliance on usufructuary rights mediated through male relatives illustrates this dependency (Umukoro *et al.*, 2024), while in South Sudan, patrilineal inheritance systems continue to marginalise widows and unmarried women (Hessbruegge, 2012; Bazugba, 2024).

African feminist scholarship deepens this analysis by situating gender inequality within colonial histories, communal land relations, and evolving cultural systems rather than treating culture as inherently oppressive (Tamale, 2020; Mama, 1995). From this perspective, customary land tenure systems in South Sudan and Nigeria are understood as historically constructed institutions shaped by colonial legacies and contemporary power relations rather than fixed traditions (Tsikata, 2015). Collectively, feminist theory demonstrates that gender inequality in land governance cannot be addressed through legal reform alone but requires structural transformation of the social relations and power systems that govern land ownership and control.

2.7.2 Intersectionality and Structural Inequality

Intersectionality theory strengthens feminist analysis by recognizing that women do not form a homogeneous group. Rather, their experiences of land access and exclusion are shaped by overlapping identities such as class, ethnicity, marital status, age, and displacement status (Crenshaw, 1989; Makhetha, 2024).

In South Sudan, intersectional analysis is especially important in post-conflict settings. Widowed, internally displaced, or female-headed households face compounded vulnerabilities. For example, women returning to ancestral lands after displacement often face disputes where customary authorities prioritize male lineage claims, leaving them without legal or social protection (Ajayi & Alausa, 2025; Ogada, 2022). These patterns show how conflict intensifies pre-existing gender inequalities.

In Nigeria, intersectionality appears through regional, socioeconomic, and environmental differences. Rural women in customary land systems experience greater exclusion than urban women who can access land through formal markets, though often with financial barriers (Chigbu, 2019; Ikeiofor, 2006). Women in the Niger Delta face a particular combination of gender and environmental injustice, where ecological damage undermines livelihoods while lack of land ownership excludes them from compensation schemes (Umukoro *et al.*, 2022; Uduji *et al.*, 2023; Adeleke, 2024).

Intersectionality also highlights inequalities among women themselves. Elite women may secure land through education, political networks, or financial resources, while poorer women remain dependent on subsistence systems. This variation challenges policy approaches that treat women as a single category and emphasizes the need for targeted, context-specific interventions.

Thus, intersectionality shifts analysis from broad gender inequality toward more nuanced, layered disadvantage, supporting more precise and effective policy responses in both South Sudan and Nigeria.

2.7.3 Legal Pluralism in Land Governance

Legal pluralism—the coexistence of statutory, customary, and sometimes religious legal systems—is a defining feature of land governance in both South Sudan and Nigeria. Although plural systems may provide flexible and context-sensitive governance, in practice they often generate overlapping authority, legal uncertainty, and unequal power relations that disproportionately disadvantage women and vulnerable groups. In both countries, customary institutions remain central to land allocation, ownership, and dispute resolution, particularly in rural areas where state institutions have limited reach. Yet the interaction between statutory and customary systems is not neutral; rather, it reinforces hierarchies of gender, age, and social status. In South Sudan, customary authorities recognised under the Local Government Act of 2009 administer customary law through chiefdoms and customary courts grounded in lineage and clan systems. While statutory frameworks such as the Land Act (2009) and the Transitional Constitution of the Republic of South Sudan (2011) formally guarantee equal land rights, customary

law—explicitly recognised under Article 166 of the Constitution—continues to dominate practice (Genicot & Hernandez-de-Benito, 2022).

The result is a parallel governance structure, in which progressive statutory provisions coexist with customary norms that prioritise male lineage and inheritance. Widows in parts of Equatoria and Bahr el Ghazal, for example, may experience “property grabbing” by male relatives despite constitutional protections, while displaced and returnee women often struggle to reclaim land because customary authorities recognise only male household heads as legitimate claimants (United Nations Development Programme, 2022; Bazugba, 2025). Nigeria reflects a similarly layered form of legal pluralism. Although the Land Use Act (1978) establishes a formally gender-neutral statutory system by vesting land in state governors, customary tenure arrangements continue to regulate land relations in many rural communities (Whitehead & Tsikata, 2001; World Bank, 2023). In northern Nigeria, male relatives frequently mediate women's access to farmland, limiting their tenure security and decision-making authority. In the Niger Delta, women affected by oil pollution are often excluded from compensation and resettlement processes because negotiations occur primarily with male community leaders, denying women direct claims to restitution (Umukoro *et al.*, 2024; Duku, 2025). Across both contexts, customary institutions frequently reinforce male dominance in land ownership, restrict women's participation in governance, and act as gatekeepers to land and related resources.

The deeper challenge lies not merely in the existence of customary systems but in their interaction with statutory law. Legal pluralism creates ambiguity that enables selective enforcement and “forum shopping”, whereby powerful actors choose whichever legal system best advances their interests. For women, this often means navigating conflicting legal rules, limited access to formal courts, costly litigation, and entrenched gender bias within customary dispute mechanisms. Consequently, the gap between “law on the books” and “law in practice” becomes a structural feature of governance rather than a temporary implementation problem (Bosio and Upegui, 2025). Moreover, legal pluralism may be instrumentalised to legitimise discrimination under the guise of cultural preservation, allowing customary norms to remain insulated from constitutional scrutiny despite formal commitments to equality (UNDP, 2024). This creates a systemic contradiction in which statutory law promises equality while customary law simultaneously restricts it.

At the same time, customary institutions remain socially legitimate and accessible for many local communities, making their complete dismissal impractical. Increasingly, gender-responsive initiatives have sought to engage traditional authorities as agents of

reform. Community dialogues in South Sudan have contributed to gradual recognition of women's user rights to land, while initiatives in southern Nigeria have encouraged chiefs to include women in land allocation committees (UN Women, 2022). Scholars therefore argue that effective reform requires harmonising statutory and customary systems by ensuring constitutional equality principles prevail while simultaneously transforming discriminatory norms within customary frameworks through legal reform, social norm change, capacity-building, and improved access to justice (Deininger & Goyal, 2024). Legal pluralism is thus not simply a descriptive condition of governance but a structural mechanism through which gender inequality is reproduced by shaping whose claims to land are recognised and whose rights remain denied.

2.7.4 Dramatic Theory and the Performance of Power

Dramatic theory provides an interdisciplinary lens for understanding land governance as a performative space in which power relations are enacted, reproduced, and contested. Drawing from performance theory and sociology, it conceptualises institutions as “stages” where actors perform socially prescribed roles shaped by cultural scripts and hierarchies. In South Sudan and Nigeria, land governance operates as a theatre of power in which men are positioned as landowners, custodians of tradition, and decision-makers, while women are cast as dependents or secondary land users. These gendered roles are reinforced through everyday practices such as inheritance rituals, land allocation, and dispute resolution. Customary institutions function as “scriptwriters”, reproducing narratives that legitimise male dominance and women's exclusion. In many Nigerian communities, for instance, women are viewed as “temporary members” of their natal families, thereby justifying exclusion from inheritance (van den Bold, 2015), while in South Sudan, land is similarly framed as belonging to male lineage systems (Bazugba, 2024; FAO, 2025).

From this perspective, gender inequality persists not only because of structural barriers but also because repeated social performances normalise exclusion. Consequently, legal reform alone is insufficient if the underlying cultural performances that sustain inequality remain intact. Gender assessment interventions can therefore be understood as disruptive performances that challenge dominant scripts by promoting women's participation in land governance, advancing joint land titling, and strengthening legal awareness and access to justice. Dramatic theory thus complements feminist and intersectional approaches by illuminating the symbolic and performative dimensions of power, offering deeper insight into how gender inequality is reproduced and how transformative change may occur.

2.8 Conceptual Framework: Gender Assessment and Reparative Justice

This study conceptualises gender assessment not only as a technical analytical tool, but also as a transformative mechanism for advancing reparative justice in land governance systems. In conventional terms, a gender assessment involves the systematic examination of how policies, institutions, and practices affect women and men differently, with the aim of promoting equity and inclusion (Food and Agriculture Organization, 2023; UN Women, 2022).

At a foundational level, a gender assessment approach typically includes four core components: the collection of sex-disaggregated data; the analysis of gendered power relations; the identification of structural and institutional barriers; and the design of gender-responsive interventions. These elements enable researchers and policymakers to move beyond surface-level observations and uncover embedded inequalities within land governance systems (FAO, 2023; UN Women, 2022).

However, this study extends the concept of gender assessment by linking it explicitly to reparative justice. Reparative justice goes beyond the recognition of inequality to actively addressing historical and systemic injustices through processes of redistribution, restitution, and structural transformation (United Nations Development Programme, 2022; World Bank, 2023). In this sense, gender assessment becomes not merely diagnostic, but corrective and transformative.

Conceptual Framework: Five Interrelated Pillars

The framework developed in this study is structured around five interrelated pillars:

1. **Recognition:** Recognition involves acknowledging the historical and structural injustices that have systematically excluded women from land ownership and control. These include colonial land policies, discriminatory statutory laws, and entrenched patriarchal norms that continue to shape access to land (FAO, 2023; UN Women, 2022). Recognition is a critical first step in making inequalities visible and legitimising claims for justice.
2. **Redistribution:** Redistribution focuses on ensuring equitable access to land and related resources. This can be achieved through mechanisms such as joint land titling, land redistribution programmes, and the inclusion of women in land governance structures. Evidence shows that secure land rights for women contribute to improved household welfare, agricultural productivity, and climate resilience (World Bank, 2023).
3. **Representation:** Representation emphasises women's meaningful participation in land governance institutions and decision-making processes. This includes the use of quotas, legal

reforms, and institutional mechanisms that promote inclusive governance. Without representation, policy reforms risk reinforcing existing power imbalances (UN Women, 2022).

4. **Restitution:** Restitution addresses the restoration of land rights to women who have been dispossessed, particularly in post-conflict and displacement contexts. In fragile settings such as South Sudan, where conflict has disrupted customary and statutory land systems, restitution is central to rebuilding livelihoods and supporting durable peace (Bazugba, 2025; UNDP, 2022).
5. **Transformation:** Transformation goes beyond institutional reform to challenge and reshape the cultural norms, social practices, and power relations that sustain gender inequality. This includes addressing discriminatory customary practices and promoting normative change at community and national levels (FAO, 2023).

Contextual Application

In South Sudan, this framework aligns closely with post-conflict reconstruction and transitional justice processes, where land governance is deeply intertwined with peacebuilding, reconciliation, and social cohesion (Bazugba, 2025; UNDP, 2022).

In Nigeria, the framework connects to ongoing efforts in judicial activism, environmental justice, and policy reform aimed at addressing systemic inequalities in land access and control (Adebayo, 2026; Duku, 2025; Umukoro *et al.*, 2024).

Importantly, the framework also integrates the climate–land–gender nexus. Climate change is widely recognised as a “threat multiplier” that exacerbates existing vulnerabilities, including land insecurity among women (Intergovernmental Panel on Climate Change, 2022; Ogada, 2022). As such, a reparative justice approach must incorporate climate resilience strategies, including secure land tenure, sustainable land management, and adaptive governance systems.

Synthesis of the Framework

By drawing on multiple theoretical perspectives—feminist theory (which highlights structural power inequalities), intersectionality (which captures layered and overlapping forms of discrimination), legal pluralism (which recognises the coexistence of statutory and customary legal systems), and dramatic theory (which examines performative dimensions of power and agency)—this study develops a multidimensional analytical framework. This integrated approach enables a deeper understanding of how gender inequalities in land governance are historically produced, institutionally reinforced, and socially reproduced. At the same time, it provides a pathway for identifying transformative interventions that address both structural constraints and lived experiences.

Ultimately, the framework demonstrates that gender assessment, when linked to reparative justice, can move beyond diagnosis to become a practical tool for advancing equity, restoring rights, and fostering inclusive and sustainable land governance in contexts such as South Sudan and Nigeria.

3. METHODOLOGY

This study adopts a qualitative, interpretive, and comparative research design to examine how gender assessment can address historical injustice and advance reparative justice in land governance across South Sudan and Nigeria. A qualitative approach is appropriate because gender inequality in land access is socially constructed through cultural norms, institutional power relations, and historical processes that cannot be adequately captured through quantitative methods alone (Creswell & Poth, 2018; Denzin & Lincoln, 2018). The comparative case study design positions South Sudan as a post-conflict context and Nigeria as a resource-driven and legally pluralistic setting, enabling analysis of both shared structural patterns of gendered exclusion and context-specific differences in policy implementation and institutional effectiveness (Yin, 2018). The study relies exclusively on secondary qualitative data derived from purposive document analysis of legal frameworks, policy documents, gender assessment reports, academic literature, and institutional publications from organisations such as FAO, UN Women, and IGAD. Key sources include the South Sudan Land Act (2009), the Transitional Constitution (2011), and Nigeria's Land Use Act (1978). Materials were selected based on relevance, scholarly credibility, and accessibility, while methodological triangulation across diverse documentary sources strengthened the reliability and validity of findings (Bowen, 2009; Yin, 2018; Patton, 2015).

Data were analysed using thematic analysis to identify and interpret recurring patterns within the qualitative materials (Kabir, 2024; Braun & Clarke, 2006). The process involved familiarisation with the data, coding of concepts such as legal pluralism and patriarchal norms, grouping codes into broader themes including institutional barriers and access to justice, refining themes, and producing the analytical narrative. A comparative analytical strategy was then employed to contrast similarities and differences across the two cases, highlighting common structural drivers of exclusion, such as customary authority, alongside contextual distinctions, including post-conflict fragility in South Sudan and entrenched legal pluralism in Nigeria. By combining thematic analysis with cross-case comparison, the study provides a robust framework for understanding how gender assessment can evolve from a diagnostic exercise into a practical mechanism for reparative land justice (Ragin, 2014; George & Bennett, 2005).

4. GENDER ASSESSMENT AND LAND GOVERNANCE IN SOUTH SUDAN

4.1 Historical Context and Post-Conflict Land Dynamics

Colonial intervention, protracted armed conflict, and post-independence state-building challenges have shaped South Sudan's land governance system. Before South Sudan's independence in 2011, customary systems primarily governed land tenure, relying on communal ownership, kinship, and clan authority. While these systems provided social cohesion and collective resource management, they were deeply patriarchal, recognising men as custodians of land while women's access remained dependent on fathers, husbands, or male relatives rather than independent ownership. Consequently, customary governance embedded gender inequality within inheritance systems, land administration, and communal authority structures (Bazugba, 2024; Bedigen, 2022; Hove & Ndawana, 2017). Colonial governance under the Anglo-Egyptian administration further reinforced these inequalities through indirect rule exercised by male traditional leaders, strengthening patriarchal authority, and institutionalising hierarchical land relations that persisted into the postcolonial era. During Sudan's broader instability, militarisation, ethnic identity, and political struggle increasingly tied land governance.

The prolonged civil wars from 1955–2005 and renewed conflict between 2013–2018 transformed land into a contested political and economic resource. Mass displacement disrupted customary governance systems, fractured social protections, and generated overlapping claims among returnees, political elites, military actors, and local communities, particularly in urban and peri-urban areas where land values increased significantly (Almeida *et al.*, 2024). Land consequently became central not only to livelihoods but also to citizenship, ethnic identity, peacebuilding, and post-conflict legitimacy. Conflict weakened the customary protections that had mediated women's already precarious land access, causing them to experience these transformations most severely. Widows, internally displaced individuals (IDPs), divorced women, and female-headed households frequently faced dispossession through male-dominated inheritance systems, contested claims, and discriminatory customary norms. Many displaced women also lacked documentation or legal resources to reclaim ancestral or marital land within either customary or statutory systems, illustrating how armed conflict intensified pre-existing patriarchal inequalities into acute forms of gendered dispossession (Ajayi & Alausa, 2025; Ogada, 2022).

Although South Sudan's Transitional Constitution and Land Act formally guarantee women's land rights and equality, implementation remains constrained by institutional fragility, weak administrative reach, and the dominance of uncoded

customary systems (Deng, 2013; Wegerif, 2020). Women continue to access land largely through male relatives, leaving widows and displaced women particularly vulnerable. Conflict has further deepened these inequalities by weakening both customary safeguards and formal state institutions. Refugee return, contested tenure claims, and widespread insecurity have created overlapping land disputes that are often resolved through male-dominated customary institutions that deprioritize women's rights (IGAD, 2023; FAO, 2024). Bazugba (2024) notes that patriarchal norms and weak institutional accountability continue to obstruct the implementation of policy commitments to equality. Legal pluralism therefore creates a governance environment in which constitutional protections coexist with discriminatory customary practices, leaving women navigating contradictory systems that undermine substantive equality.

Historical injustice in South Sudan's land sector is thus multidimensional, rooted simultaneously in patriarchal tradition, colonial governance, violent conflict, displacement, and fragile post-conflict institutions. Intersecting systems of structural inequality both historically produce and continually reproduce women's exclusion from land. South Sudan therefore illustrates how war and state fragility deepen gender injustice by eroding both statutory protections and customary safeguards. Addressing these inequalities requires more than formal legal reform; it necessitates an integrated framework linking gender-responsive land governance to peacebuilding, restitution, institutional rebuilding, transitional justice, and women's participation in post-conflict governance. Land reform must therefore be understood as central to reconciliation, equitable citizenship, and broader socio-political transformation in South Sudan's fragile post-conflict environment.

4.2 Legal and Institutional Framework

South Sudan's legal framework formally recognises gender equality in land rights. Key instruments include the following:

- The Transitional Constitution (2011), which guarantees equal rights to property and inheritance
- The Land Act (2009), which explicitly prohibits gender-based discrimination in land ownership
- Ratification of international frameworks such as CEDAW (2014) and the Maputo Protocol (2023)

Despite these progressive provisions, gender assessments reveal a persistent gap between legal guarantees and implementation (Genicot & Hernandez-de-Benito, 2022; Bazugba, 2024). This gap is primarily due to weak institutional capacity, limited awareness of legal rights, and the dominance of customary systems in

land administration, which hinder effective enforcement of gender equality laws and policies.

Institutionally, land governance involves multiple actors, including:

- ❖ Ministry of Lands, Housing and Urban Development
- ❖ South Sudan Land Commission
- ❖ Local government authorities
- ❖ Customary courts and traditional leaders

However, these institutions often lack gender-sensitive structures. For instance, assessments have identified the following:

- ✓ Absence of gender units within land ministries
- ✓ Limited representation of women in land governance bodies
- ✓ Weak coordination between gender and land sector institutions

Recent reforms, such as the establishment of a Land Reform Unit and the development of the South Sudan Women's Land Rights Agenda (2021–2030), signal a shift toward gender-responsive governance. These initiatives aim to institutionalise gender equality through quotas, policy reforms, and capacity-building measures.

4.3 Customary Law and Gendered Power Structures

Customary law remains the dominant system of land governance in South Sudan, particularly in rural areas. While it provides legitimacy and local relevance, it also reinforces deeply embedded patriarchal norms.

Under customary systems:

- ✚ Land is typically owned by male lineage groups.
- ✚ Women access land through husbands, fathers, or male relatives
- ✚ Inheritance rights are largely restricted to men.
- ✚ Widows may retain temporary use rights but rarely gain ownership

These practices reflect what feminist scholars describe as structural patriarchy, where social norms and institutions systematically privilege men over women (Connell, 2022).

Gender assessments highlight that customary authorities—chiefs, elders, and community leaders—play a central role in land allocation and dispute resolution. However, these institutions are overwhelmingly male-dominated, limiting women's participation and voice.

Importantly, customary systems are not static. They are socially constructed and can evolve. Gender assessment interventions have begun engaging traditional leaders to reinterpret customary norms in

ways that support women's rights. However, resistance remains strong, particularly where land is tied to identity, lineage, and social status.

Thus, customary law represents both a barrier and an opportunity—a barrier when it reinforces inequality and an opportunity when engaged as a site for transformative change.

4.4 Intersectionality and Women's Land Access

Women's experiences of land access in South Sudan are highly differentiated, shaped by intersecting factors such as marital status, displacement history, age, and socio-economic position.

Key Intersectional Groups

- Widows: Often face dispossession by in-laws due to patrilineal inheritance systems
- Internally Displaced Women (IDPs): Lack documentation and face challenges reclaiming land upon return
- Female-Headed Households: Experience economic vulnerability and limited bargaining power
- Young and Unmarried Women: Rarely have independent land rights

Studies indicate that land insecurity disproportionately affects these groups, underscoring the significance of socially differentiated gender assessments (Makhetha. (2024; Ajayi & Alausa, 2025).

Intersectionality also reveals intra-community inequalities. Elite women, particularly those with education or political connections, may navigate formal systems more effectively, while rural and marginalised women remain excluded from these benefits, leading to a widening gap in access to land rights and resources.

Therefore, a universal approach to gender equality is inadequate. Effective land reform must address the specific vulnerabilities of different groups of women, ensuring targeted and inclusive interventions that consider factors such as socioeconomic status, geographic location, and access to resources.

4.5 Vulnerability of Land to Climate Change

Climate change is increasingly becoming a defining factor shaping land governance in the fragile post-conflict context of South Sudan. It is often seen as a "threat multiplier", as it exacerbates existing vulnerabilities such as resource scarcity, displacement and conflict over land and natural resources (Intergovernmental Panel on Climate Change, 2022). Climate-induced shocks such as flooding, drought and environmental degradation have far-reaching implications for land access and tenure security, especially in agrarian economies such as South Sudan, where livelihoods are largely dependent on land. Women

are disproportionately affected by these dynamics as they constitute a large share of subsistence agricultural producers and are directly dependent on land for their food security and household survival (Food and Agriculture Organization, 2011). However, women's limited and insecure land rights restrict their capacity to invest in land, adopt climate-resilient agricultural practices or access financial and institutional support.

The climate–land–gender nexus, the intersection of climate change, land governance and gender inequality, shows how environmental pressures strengthen structural inequalities. Evidence suggests that insecure land tenure discourages investment in sustainable land management and adaptive capacity, particularly for women farmers (Food and Agriculture Organization, 2011; UN Women, 2022). In South Sudan, where customary systems prevail in land administration, women's marginalisation further reduces resilience to climate shocks. Gender-sensitive land governance should therefore include land tenure security, climate adaptation measures and women's participation in environmental decision-making. If this integration is not achieved, climate change risks exacerbating inequality by undermining sustainable development and peacebuilding.

4.6 Findings from Gender Assessment

Gender assessments from South Sudan show that women's access to land and justice is still blocked by structural and institutional barriers. One of the major challenges is lack of legal awareness, with a number of women not aware of their legal rights and thus unable to claim or defend land rights (Food and Agriculture Organization, 2022).

A Jupiter assessment by Bosio and Upegui (2025) underlined that limited access to courts for low-income individuals in South Sudan is further compounded by the lack of a functional, state-funded legal aid system for civil matters. In this context, legal aid refers to the provision of free legal support to individuals who cannot afford representation, including court advocacy, pre-trial legal advice, coverage of court and expert fees, enforcement costs, and even transportation expenses. Although the Transitional Constitution guarantees the right to legal assistance for those unable to afford a lawyer, the legal framework governing its implementation remains fragmented and poorly defined. There is no comprehensive national policy clearly outlining institutional mandates, eligibility criteria, or procedures for delivering legal aid services. As a result of this regulatory gap, awareness and understanding of legal aid remain extremely limited; many citizens are unaware of its existence, and even legal practitioners and judicial officers often lack clarity on how it should function in practice. This is further complicated by institutional weaknesses, such as weak administrative capacity, poor coordination among land

governance institutions, and the lack of gender-sensitive frameworks needed for effective implementation of legal protections (Kifle *et al.*, 2024).

The statutory guarantees are further weakened by the dominance of customary systems, particularly in rural areas, where traditional authorities handle land allocation and dispute resolution. Such systems provide social legitimacy but often reinforce patriarchal norms that exclude women from ownership and inheritance (UN Women, 2022). Women also face significant barriers to accessing justice, including high costs, distance to formal courts and gender bias in both customary and statutory institutions. Women are still under-represented in land governance institutions, restricting their participation in decision-making processes that affect land rights and distribution of resources. The lack of reliable sex-disaggregated data constrains evidence-based policymaking and the effective monitoring of gender equality results.

Despite these challenges, gender assessments have led to important reforms. They have raised awareness of women's land rights, helped to shape gender-responsive policies, and supported institutional changes such as the creation of gender focal points and quotas for representation. The findings point to the potential of gender assessments to be both diagnostic and transformative in addressing land-based inequalities.

4.7 Reparative Justice and Policy Responses

Land reform in South Sudan is increasingly infused with elements of reparative justice, recognising that gender inequality in land ownership is based on historical and structural injustices. At the heart of this is the South Sudan Women's Land Rights Agenda (2021–2030) that aims to strengthen legal protections, encourage joint land registration, and increase women's participation in land governance. These efforts align with international frameworks emphasising secure land tenure and gender equity as essential for sustainable development and social justice (UN Women, 2022).

Policy measures such as the use of gender quotas, especially the 35% representation goal, are strategies to address the under-representation of women in land governance institutions. Similarly, the joint spousal land registration campaigns are designed to guarantee women's rights within marriage and defend them in case of inheritance conflicts. Institutional reforms, including the creation of gender units, improved coordination between land and gender ministries and the establishment of monitoring frameworks, signal attempts to bolster governance structures. Crucially, land reform is becoming more tied to transitional justice and peacebuilding processes, recognising that access to land on an equitable basis is vital for reconciliation and long-term stability in post-conflict settings (Intergovernmental Panel on Climate Change, 2022).

But there are still big challenges. Weak enforcement mechanisms, limited institutional capacity and entrenched socio-cultural norms continue to undermine the effectiveness of such reforms. These shortcomings point to one of the main conclusions of this study, that legal and policy reforms alone are not sufficient to achieve substantive gender equality. Meaningful transformation requires parallel changes in social norms, institutional practices and power relations that uphold women's marginalisation. If these reforms are not accompanied by such structural and cultural transformation, they risk being symbolic rather than having lasting impact.

5. GENDER ASSESSMENT AND LAND GOVERNANCE IN NIGERIA

5.1 Historical Evolution of Land Tenure Systems

Nigeria's land tenure system emerged through the interaction of indigenous customary systems, colonial administration, and post-independence legal reforms, producing a complex governance framework in which land remains central to economic production, social identity, and political power. Prior to colonialism, land in most Nigerian societies was held communally under kinship groups, village councils, and traditional rulers. Although these systems provided collective access and social security, they were deeply patriarchal, privileging male authority in land allocation, inheritance, and decision-making. Women generally held secondary use rights for subsistence farming and household support, while secure ownership and inheritance were mediated through fathers, husbands, or male kin (Amanor, 2008; Tsikata, 2015). Patrilineal inheritance structures therefore institutionalised gendered exclusion within customary tenure arrangements long before colonial intervention.

Colonial rule reinforced rather than dismantled these inequalities. Through indirect rule, British authorities governed via male traditional leaders and native authorities, strengthening patriarchal institutions as intermediaries of state control (Eiró & Lotta, 2024). In northern Nigeria, colonial land administration became centralised under emirate systems, while in southern regions customary tenure persisted but was reshaped through colonial legal concepts. The coexistence of statutory colonial law and customary governance created a fragmented legal order in which customary institutions remained dominant in everyday land relations, particularly in rural communities. Women's land rights consequently remained informal and precarious, as colonial reforms prioritised administrative stability over gender equity. Following independence, the Land Use Act of 1978 sought to centralise land governance by vesting land in state governors to promote equitable access and economic development. However, while formally gender-neutral, the Act did not dismantle patriarchal customary systems. Instead, it created a hybrid governance structure in which statutory law

coexists with customary tenure, leaving women constrained by bureaucratic barriers, costly registration procedures, and discriminatory social norms.

Gender assessments consistently demonstrate that this layered historical evolution has produced a system in which women's rights are formally recognised yet substantively limited by legal pluralism, patriarchal customs, and socio-economic inequality. Nigeria therefore presents a distinct model of persistent gendered land injustice rooted in the interaction of statutory law, customary systems, and, in northern regions, Islamic legal frameworks (Kimani, 2008; Djurfeldt, 2020). This institutional plurality creates ambiguity that often enables chiefs, elites, and male relatives to consolidate control over land while excluding women from meaningful participation (Meinzen-Dick & Pradhan, 2002). Formal equality consequently fails because governance structures continue to reproduce patriarchal exclusion through administrative systems, customary institutions, and unequal access to resources. Like South Sudan, Nigeria demonstrates how historical processes shape contemporary gender disparities, although through trajectories more closely linked to colonial institutionalisation, legal centralisation, and resource-driven political economies.

Beyond ownership and inheritance, women in Nigeria face significant injustices linked to environmental governance, compensation, and climate vulnerability. In the Niger Delta, oil extraction, ecological degradation, and land dispossession have disproportionately undermined women's agricultural livelihoods, while compensation systems frequently privilege male household heads and community elites (Chigbu *et al.*, 2022). Women are often excluded from decisions relating to ecological restoration, displacement settlements, and climate adaptation. This broadens the analysis of women's land rights beyond tenure security to include distributive justice, environmental justice, and reparative governance. Nigeria, therefore, demonstrates that gender inequality in land governance cannot be understood solely through ownership frameworks but must also address ecological harm, compensation inequality, and climate vulnerability as interconnected dimensions of structural exclusion.

5.2 The Land Use Act and Legal Framework

The Land Use Act (1978) remains the cornerstone of Nigeria's land governance system. It vests land in state governors, who allocate it through statutory rights of occupancy, while local governments administer customary rights in rural areas.

In principle, the Act is gender-neutral, providing equal access to land for all citizens. Additionally, Nigeria's Constitution guarantees non-discrimination, and the country has ratified international instruments such as CEDAW and the Maputo Protocol.

However, in practice, several challenges undermine gender equality:

- **Bureaucratic Barriers:** Formal land acquisition processes are complex, costly, and inaccessible to most women.
- **Discretionary Power:** Governors and local authorities exercise broad discretion, often influenced by social and political biases.
- **Weak Enforcement:** Anti-discrimination provisions are rarely enforced in land matters.

Scholars argue that the gender-neutral language of the Land Use Act masks structural inequalities, resulting in what has been termed "de facto discrimination" (van den Bold, 2015; Umukoro *et al.*, 2024). Women's land rights are thus constrained not by explicit legal exclusion but by systemic barriers embedded in implementation (Dabara & Ogunba, 2019).

Recent legal developments, including judicial activism and policy reforms, have begun to challenge discriminatory practices. For example, court rulings in inheritance disputes have increasingly upheld women's rights, signalling a gradual shift toward substantive equality (Ajiboye, 2025).

5.3 Customary Practices and Gender Inequality

Customary law continues to play a dominant role in land governance, particularly in rural Nigeria. These systems are diverse and vary across ethnic groups, but they share common features that disadvantage women.

Key characteristics include the following:

- ❖ Patrilineal inheritance systems that exclude daughters from land ownership (Amadiume, 2015)
- ❖ Allocation of land to women primarily for subsistence farming rather than ownership
- ❖ Cultural norms that prioritise male lineage continuity

In many communities, women are considered "temporary members" of their natal families and are expected to access land through marriage. This perception reinforces their exclusion from inheritance and ownership rights (Van den Bold, 2015).

Gender assessments reveal that customary practices often persist even in urban and peri-urban areas, where formal legal systems are more accessible. This underscores the deep cultural entrenchment of gender inequality in land relations. However, as in South Sudan, customary systems are not immutable. Some communities have begun to reinterpret traditions in ways that accommodate women's rights, particularly where economic pressures and social change challenge existing norms (Hessbruegge, 2012; Santschi, 2010).

5.4 Environmental Justice in the Nigeria

What makes Nigeria's land governance system unique is the combination of gender inequality and environmental injustice, especially in the Niger Delta. For decades, oil spills, gas flaring, deforestation, and industrial pollution have ecologically degraded the Niger Delta, the centre of Nigeria's oil extraction industry. These environmental harms have significantly diminished agricultural productivity, harmed water systems, and disrupted traditional livelihoods that rely on land-based resources Uduji *et al.*, 2023; Adeleke, 2024; United Nations Environment Programme [UNEP], 2011). Women in the Niger Delta are especially vulnerable because they depend on land for subsistence farming, food production and household economic security. However, women are often excluded from compensation frameworks, resource governance processes and environmental remediation decisions in cases of ecological damage, as they are often denied formal ownership or recognised control over land by patriarchal land tenure systems (Ajiboye, 2025; Uduji *et al.*, 2023; Adeleke, 2024).

This again presents a form of double marginalisation where women are excluded from land ownership and are disproportionately vulnerable to environmental damage. Their exclusion from compensation and governance structures not only exacerbates economic vulnerability but also reinforces broader patterns of political and social disempowerment. In Nigeria, existing environmental governance and resource compensation frameworks often do not sufficiently incorporate gender-sensitive perspectives, thus perpetuating systemic inequalities rather than alleviating them (Ajiboye, 2025). Therefore, meaningful reform in Nigeria's land governance system must include environmental justice as well as gender equality, especially in resource-dependent and ecologically vulnerable areas such as the Niger Delta.

5.5 Gender and the Urban-Rural Divide in Land Rights

Women in Nigeria face a significant urban-rural divide in their access to land. In cities, women may access land via formal market mechanisms, through income generated from employment and through statutory legal channels. However, high land prices, bureaucratic complexity, discriminatory lending practices, and gender bias in financial institutions (Ajiboye, 2025) often constrain these opportunities. In theory, urban women may have more legal protections, but practical barriers still impede equitable access.

In rural areas, women's access to land is much more shaped by customary systems, family relations and marital ties. Here, patriarchal customary norms are often more entrenched, and women's rights are often mediated through male relatives or spouses rather than acknowledged in their own right. Chigbu (2019) reveals

that rural women in Nigeria face more risks of land insecurity due to the perpetuation of women's subordinate position in systems of inheritance, ownership and governance by customary systems. This exclusion is further compounded by limited access to formal legal institutions, lower levels of legal literacy, and stronger adherence to traditional gender roles. Consequently, rural women are much more vulnerable to dispossession, insecure tenure, and economic marginalisation, which highlights the importance of geographically and socially differentiated policy interventions (Kifle *et al.*, 2024).

5.6 Results of the Gender Assessment

Gender assessments in Nigeria have repeatedly identified several structural barriers that continue to limit women's equal access to land. Patriarchal norms still influence land ownership, inheritance and governance practices, thereby reinforcing systemic exclusion (Chigbu, 2019; Ajiboye, 2025). Second, customary systems that govern everyday land governance undermine statutory protections for gender equality, creating a significant legal-customary gap. Third, women encounter financial, bureaucratic and socio-cultural barriers that hinder their participation in formal land markets and legal systems. Fourth, women are still under-represented in land administration institutions and governance structures, so they cannot influence policy and dispute resolution processes.

Environmental exclusion is also a major aspect of gender inequality in resource-rich regions like the Niger Delta, where women often suffer the brunt of ecological degradation but are excluded from compensation and environmental governance. Finally, critical data and monitoring gaps persist, especially the lack of comprehensive gender-disaggregated land ownership data, which undermines policy design, implementation and accountability mechanisms (Ajiboye, 2025). Despite these ongoing challenges, gender assessments have played a critical role in raising awareness, providing legal advocacy, challenging discriminatory practices and stimulating policy discourse around gender-sensitive reforms.

5.7 Legal Reforms and Restorative Justice

Nigeria's approach to gender equality in land governance is increasingly characterised by elements of reparative justice, even if it is often less overtly articulated than in post-conflict settings like South Sudan. Judicial activism has been particularly significant in challenging discriminatory inheritance systems and establishing legal precedents that enhance women's rights. Landmark court decisions, such as those that nullified exclusionary inheritance customs, illustrate the growing role of the judiciary in addressing gender-based injustices under customary legal norms (Nweke v. Nweke, 2014; Ukeje v. Ukeje, 2014). These legal

developments are part of a larger trend towards substantive rather than formal equality.

Women's access to land, increased participation in governance institutions and structural barriers have been targeted by policy reform and advocacy efforts through gender-sensitive reform agendas (Ajiboye, 2025). Civil society organisations, feminist legal advocates, and international development actors have played important roles in raising awareness, supporting strategic litigation, and challenging patriarchal norms. Emerging policy proposals increasingly emphasise transformative approaches, such as joint land titling, gender quotas in land governance institutions, and mainstreaming gender considerations in environmental and resource governance frameworks (Kifle *et al.*, 2024).

However, Nigeria's reform path is different in important ways from South Sudan's. In South Sudan, land governance reforms are motivated by post-conflict reconstruction and restitution, whereas in Nigeria, they are more shaped by legal contestation, economic inequality and environmental governance concerns. Notwithstanding these contextual differences, both countries share a common limitation in that the reforms tend to focus on formal equality without adequately addressing the deeper structural and cultural power systems that sustain the exclusion of women. This highlights the need for transformative land governance approaches that blend legal reform with cultural transformation, institutional strengthening, and economic redistribution.

6. COMPARATIVE ANALYSIS: SOUTH SUDAN AND NIGERIA

6.1 Similarities in Gendered Land Inequality

Despite their different historical trajectories and political economies, South Sudan and Nigeria reveal strikingly similar structural foundations of gender inequality in land governance. While South Sudan's context is shaped by post-conflict reconstruction and state fragility, and Nigeria's is shaped by colonial institutionalisation and legal centralisation, both systems systematically marginalise women from securing land rights through deeply embedded patriarchal structures. Across both countries, patriarchal norms remain the primary organising principle of land access, with women's rights mediated through fathers, husbands, brothers, or sons rather than recognising them as autonomous entitlements. This produces insecure, secondary tenure arrangements in which land is associated with male lineage continuity and authority, reinforcing the perception of men as natural custodians of land while women are positioned as dependents or temporary users (Tsikata, 2015; Whitehead & Tsikata, 2001). These hierarchies are reinforced through inheritance systems, cultural expectations, and

institutional practices, making women's exclusion systemic rather than incidental.

This gendered hierarchy extends beyond legal rules into broader socio-political systems where land ownership is tied to citizenship, authority, and economic autonomy. Women's exclusion therefore operates as a mechanism of socio-economic control, limiting access to wealth accumulation, agricultural productivity, and intergenerational security. Repeated social practices and institutional arrangements in both countries sustain these norms, normalising male dominance in land governance. A second shared dynamic is legal pluralism, where statutory frameworks guaranteeing gender equality coexist with customary systems that often override formal protections. In South Sudan, women's constitutional rights are undermined by customary clan authority, while in Nigeria the gender-neutral Land Use Act operates alongside entrenched customary inheritance systems (Genicot & Hernandez-de-Benito, 2022; van den Bold, 2015). This creates persistent contradictions between formal rights and lived realities, as women face conflicting legal systems, selective enforcement, and structural barriers in asserting claims.

Institutional weaknesses in both contexts reinforce the gap between *de jure* rights and *de facto* realities. Although South Sudan's challenges are largely linked to state fragility and Nigeria's to bureaucratic complexity, both suffer from weak enforcement mechanisms, limited gender mainstreaming, inadequate coordination, and women's under-representation in governance structures. These constraints prevent effective implementation of gender-equitable land policies and sustain male-dominated decision-making in land allocation and dispute resolution. A further shared feature is intersectional vulnerability, where gender inequality is shaped by overlapping factors such as displacement, marital status, socio-economic position, geography, and household structure. Widows, female-headed households, internally displaced women, and rural women are particularly disadvantaged, with conflict intensifying exclusion in South Sudan and environmental degradation compounding it in Nigeria's Niger Delta (Crenshaw, 1989; Makhetha, 2024). These intersecting inequalities emphasise the necessity of differentiated, context-sensitive policy responses rather than uniform gender frameworks.

Finally, both countries face significant data gaps, particularly the absence of reliable sex-disaggregated statistics on land ownership, inheritance, and governance participation. This limits evidence-based policymaking, weakens monitoring of gender equality reforms, and obscures the scale of women's exclusion within land systems. Taken together, these shared dynamics demonstrate that gender inequality in land governance in South Sudan and Nigeria is structurally embedded in historical institutions, legal systems, socio-

cultural norms, and governance frameworks that privilege male authority. Despite contextual differences, both cases reveal common patterns of patriarchal exclusion, institutional weakness, legal contradiction, and intersectional disadvantage. Addressing these challenges therefore requires transformative, systemic, and reparative approaches that go beyond legal reform to include institutional restructuring, socio-cultural change, and redistributive justice.

6.2 Comparative Analysis: From Diagnostic Assessment to Reparative Land Governance

The comparative analysis of South Sudan and Nigeria reveals distinct pathways through which gendered land injustice is reproduced:

- ❖ South Sudan: Gender inequality is intensified by conflict, displacement, and fragile institutions.
- ❖ Nigeria: Gender inequality persists through legal pluralism, patriarchal customary systems, and environmental injustice.

While the contexts differ, both cases demonstrate that formal legal equality alone is insufficient. Women's exclusion persists when structural barriers—including customary patriarchy, administrative weakness, elite capture, and socio-environmental inequality—remain intact.

Therefore, gender assessment must evolve from a technical exercise measuring disparities into a reparative governance instrument that:

1. Exposes historical and institutional injustices;
2. Directs redistribution of land, compensation, and governance power;
3. Reforms legal and customary institutions;
4. Strengthens women's representation in land governance;
5. Integrates climate and environmental justice into land policy.

Such a framework aligns gender justice with broader goals of sustainable development, peacebuilding, and institutional transformation.

6.3 Differences in Legal and Institutional Approaches

While structural similarities exist, South Sudan and Nigeria differ significantly in their legal frameworks, institutional dynamics, and reform trajectories.

South Sudan's land governance system is shaped by its post-conflict context, where land reform is closely linked to peacebuilding and state formation. Legal frameworks explicitly incorporate gender equality, and recent initiatives—such as the Women's Land Rights Agenda—reflect a deliberate effort to integrate gender into national reconstruction processes (Bazugba, 2025).

In contrast, Nigeria's land governance system is more institutionally established but structurally rigid. The Land Use Act (1978) centralises land ownership under state control, but its gender-neutral framework fails to address underlying inequalities. Reform efforts are often incremental and driven by judicial activism and civil society advocacy, rather than comprehensive policy transformation (Adebayo, 2026 Duku, 2025).

Institutionally, South Sudan faces challenges of capacity and fragility, while Nigeria grapples with bureaucratic complexity and entrenched systems. In South Sudan, weak institutions limit enforcement; in Nigeria, strong but rigid institutions often perpetuate inequality through procedural barriers.

Thus, while South Sudan represents a context of emerging reform within fragile systems, Nigeria reflects a context of stagnation within established structures.

6.4 Post-Conflict vs. Resource-Driven Contexts

A key distinction between South Sudan and Nigeria lies in their political economies of land governance, which shape both the nature of inequality and the pathways for reform. Although both contexts exhibit entrenched gender disparities in land tenure, South Sudan's system is deeply embedded in post-conflict recovery, identity formation, and nation-building. Decades of civil war have produced displacement, fragmented tenure systems, and overlapping claims among returnees, host communities, and customary authorities. Land therefore functions not only as an economic resource but also as a marker of belonging, citizenship, and legitimacy, making disputes over land proxies for broader political and ethnic tensions. Within this context, women's land rights are inseparable from transitional justice processes aimed at addressing historical dispossession and rebuilding social cohesion (Almeida *et al.*, 2024; United Nations Development Programme, 2022).

Despite statutory provisions such as the Land Act (2009), customary systems continue to dominate land allocation and inheritance in South Sudan, privileging male lineage and marginalising women. The persistence of legal pluralism, combined with weak and uneven enforcement of statutory law, creates a structural barrier to reform. Land governance thus operates within a broader peacebuilding framework in which redistributive and restitutive measures are necessary to reconcile competing claims and restore trust in institutions (Bazugba, 2025). In contrast, Nigeria's land governance is shaped by a resource-driven political economy, particularly in the oil-rich Niger Delta, where land is closely tied to extraction, state revenue, and global energy markets. The Land Use Act centralises land control under the state, granting discretionary power to political elites while weakening customary tenure

security and facilitating elite capture (Umukoro *et al.*, 2024; World Bank, 2023).

In Nigeria, women's exclusion from land ownership is further compounded by environmental degradation linked to oil extraction, including pollution, livelihood loss, and declining agricultural productivity. This produces a dual burden in which women are excluded from land rights while simultaneously bearing disproportionate environmental harms. Gender inequality in land governance is therefore inseparable from environmental injustice, making Nigeria a key case for analysing the gendered effects of resource extraction and ecological degradation (Duku, 2025; Umukoro *et al.*, 2024). These differences highlight how South Sudan's land reform agenda is primarily tied to peacebuilding, restitution, and reconciliation, whereas Nigeria's is linked to resource governance, economic justice, and environmental regulation.

Despite these contextual differences, both cases converge on a central insight: land governance is inherently political, and gender inequality is embedded within broader systems of power, institutional control, and resource distribution. In both contexts, formal legal reforms alone are insufficient without addressing underlying structural inequalities, whether rooted in post-conflict fragility or resource-driven political economy. A comparative perspective therefore strengthens the case for a reparative justice framework. In South Sudan, this prioritises restitution and reconciliation for displaced and dispossessed women, while in Nigeria it emphasises redistribution and environmental justice in response to extractive inequality. Across both settings, meaningful transformation requires challenging patriarchal norms, reforming institutions, and enabling women's substantive participation in land governance.

6.5 Effectiveness of Gender Assessment Approaches

Gender assessment approaches have become key tools for diagnosing structural inequalities in women's land rights and informing policy interventions in both South Sudan and Nigeria. In South Sudan, gender assessments conducted by institutions such as the Intergovernmental Authority on Development (IGAD) and the Food and Agriculture Organization (FAO) have generated critical evidence on legal, institutional, and socio-cultural barriers to women's land ownership. These findings informed the South Sudan Women's Land Rights Agenda (2021–2030), exposed implementation gaps between statutory and customary systems, and supported reforms such as gender quotas in land governance structures (FAO, 2025; IGAD, 2022). They have also strengthened recognition of women's exclusion from land administration and dispute resolution. However, weak governance capacity, limited enforcement mechanisms, and political instability continue to undermine implementation, meaning that

reforms remain uneven and often constrained by insecurity and customary resistance (FAO, 2025).

In Nigeria, gender assessments are more fragmented and largely driven by civil society organisations, feminist legal groups, and international development actors rather than coordinated state-led reform. These assessments have been effective in exposing discriminatory customary inheritance practices, shaping public debate, and supporting legal advocacy for women's land rights and economic empowerment (Chigbu, 2019a, 2019b). They have also documented how patriarchal tenure systems reproduce gender inequality through social, institutional, and familial power relations. However, despite their diagnostic and advocacy strength, they have had limited impact on systemic reform due to entrenched patriarchal norms, bureaucratic inertia, and political resistance to substantive legal change. Overall, across both contexts, gender assessments are highly effective for identifying inequality, informing policy design, and raising awareness, but far less effective in transforming customary institutions and socio-cultural norms. This demonstrates that while they are necessary tools for gender justice, their impact depends on complementary legal enforcement, institutional accountability, political commitment, and broader socio-cultural transformation; otherwise, they risk remaining largely policy-orientated exercises with limited effects on women's lived land access.

6.7 Theoretical Insights (Feminist + Dramatic Analysis)

The comparative analysis yields important theoretical insights when viewed through feminist and dramatic lenses.

From a feminist perspective, both cases confirm that gender inequality in land governance is structurally embedded within patriarchal systems. Legal reforms alone are insufficient because they do not address the underlying distribution of power and resources (Fredman, 2016; Connell, 2022).

From an intersectional perspective, the analysis demonstrates that gender inequality is not uniform but varies across social categories and contexts. This reinforces the need for differentiated and targeted interventions.

Dramatic theory adds a further dimension by revealing how inequality is performed and reproduced through everyday practices. In both countries, land governance operates as a stage where:

- Men perform roles as owners and decision-makers
- Women are positioned as dependents or secondary users

These performances are reinforced through rituals, language, and institutional practices. Even when laws change, these scripts often remain intact, reproducing inequality in new forms.

The key theoretical insight is that transforming land governance requires both structural and performative change:

- ✓ Structural change addresses laws, policies, and institutions
- ✓ Performative change challenges norms, narratives, and social roles

7. DISCUSSION

7.1 Bridging Theory and Empirical Findings

The empirical findings from South Sudan and Nigeria strongly support feminist and intersectional theory while extending these frameworks through context-specific insights into African land governance. Across both cases, women's exclusion from land is not explained by isolated legal gaps or policy failures but is historically produced, institutionally reproduced, and socioculturally normalised through interconnected systems of power. This confirms that land governance is not a neutral administrative field but a contested space where gendered hierarchies are embedded, maintained, and challenged across legal, political, economic, and symbolic dimensions.

Feminist theory provides a foundational lens for interpreting these dynamics by emphasising land as a core site of power, autonomy, and socioeconomic agency (Fredman, 2016; Connell, 2022). In both South Sudan and Nigeria, limited access to land restricts women's economic independence, bargaining power, inheritance security, and political participation. However, the findings complicate liberal feminist assumptions by showing that formal legal equality is insufficient where customary practices, institutional weaknesses, and socio-cultural norms persist. Despite statutory recognition of women's rights, patriarchal systems adapt and continue to reproduce inequality, supporting structural and radical feminist arguments that substantive equality requires transformation of institutions, norms, and power relations rather than legal reform alone.

Intersectionality theory further clarifies that women's land insecurity is not uniform but shaped by overlapping identities and vulnerabilities (Crenshaw, 1989). In South Sudan, conflict, displacement, widowhood, and post-conflict fragility intensify exclusion for internally displaced women, widows, and female-headed households through loss of documentation, contested claims, and weakened protections. In Nigeria, inequality is shaped by rural marginalisation, socio-economic disparities, and environmental degradation, particularly in the Niger Delta, where women face both land exclusion and the

denial of environmental compensation. These patterns demonstrate that gender inequality must be understood through intersecting axes of power, as single-category approaches risk obscuring differentiated vulnerabilities and producing ineffective policy responses.

Extending beyond these frameworks, the study integrates legal pluralism and dramatic theory to deepen analysis. Legal pluralism shows how statutory and customary systems coexist in ways that generate institutional ambiguity, allowing patriarchal norms to persist despite formal equality, particularly in rural land governance. Dramatic theory further conceptualises land governance as a performative space where gender roles are enacted through inheritance rituals, land allocation practices, and dispute resolution systems that portray men as landowners and women as dependents. Together, these perspectives reveal that inequality operates simultaneously at structural, institutional, and symbolic levels, demonstrating that gendered land exclusion is reproduced through interacting legal systems, governance practices, and everyday social performances.

7.2 Structural and Performative Aspects of Inequality

This study contributes by distinguishing between the structural and performative dimensions of gender inequality in land governance and demonstrating how they interact to sustain women's exclusion from land rights systems. Structural dimensions refer to the formal and institutional mechanisms that reproduce inequality, including legal, policy and governance regimes, as well as broader economic and political power structures. In both South Sudan and Nigeria, legal pluralism, weak enforcement mechanisms, and patriarchal inheritance systems that favour male ownership systematically constrain women's land rights. Despite constitutional and statutory protections, customary law and institutional fragility continue to hinder implementation in South Sudan (IGAD, 2022; FAO, 2024), while in Nigeria, customary systems perpetuate discriminatory inheritance and ownership practices that reinforce women's structural marginalisation (Chigbu, 2019a; Nwapi, 2016). The study further argues that inequality is reproduced performatively through social norms, cultural narratives and everyday practices that continually frame women as dependents, secondary claimants, or temporary members of patrilineal families. Inheritance, marriage, widowhood, and community land allocation practices reinforce these narratives, normalising women's dispossession across generations (Chigbu, 2019a).

The interaction between structural and performative dimensions is central to understanding the persistence of gender inequality in land governance. Although legal reforms may formally endorse gender equality, their implementation often remains symbolic where patriarchal social scripts and discriminatory

community practices persist. Exclusionary household and community-level behaviours frequently undermine institutional reforms such as quotas and legal protections, reproducing inequality in practice. According to Fredman (2016), structural reforms alone are insufficient to dismantle deeply entrenched systems of inequality without addressing performative dimensions such as cultural norms, institutional behaviours, and community narratives. Meaningful transformation in land governance therefore requires both structural reform and broader socio-cultural change.

7.3 The Limitations of Law Reform Alone

A most evident conclusion from both South Sudan and Nigeria is that legal reform alone is of little use as a standalone strategy for achieving substantive gender equality in land governance. In South Sudan, despite the constitutional guarantees, statutory reforms, and regional commitments to women's land rights, practical realisation is weak due to institutional fragility, conflict, customary dominance, and limited administrative capacity (FAO, 2024; IGAD, 2022). Similarly, in Nigeria, formal legal mechanisms, such as the Land Use Act, are not enough, as they do not sufficiently challenge entrenched patriarchal norms, discriminatory customary inheritance systems, or bureaucratic hurdles that prevent women from effectively exercising their land rights (Nwapi, 2016; Chigbu, 2019b).

This is consistent with broader feminist legal critiques that formal equality is not the same as substantive equality. Fredman (2016) argues that legal recognition is necessary but not necessarily sufficient for changing the institutional, cultural and socio-economic parameters required for meaningful realisation of rights. Several factors explain the limitations of legal reform in both contexts: legal pluralism, which allows customary systems to override statutory protections; weak institutional enforcement; socio-cultural resistance to gender equality; and economic barriers that limit women's access to formal legal systems. Legal reform is therefore necessary, but it has to be accompanied by broader institutional strengthening, cultural transformation, and redistributive strategies if gender equality is to be achieved in a meaningful way.

7.4 Toward Transformative Land Justice

This study builds on these findings by advocating a shift from formal equality towards transformative land justice, which addresses the historical, structural and cultural roots of women's exclusion from land ownership. Grounded in reparative justice, this approach emphasises recognition, redistribution, restitution, representation and transformation as key principles of equitable land governance. It acknowledges how colonial, customary and patriarchal systems historically produced women's exclusion from land, including the effects of conflict,

displacement and institutional fragility in South Sudan, and colonial and postcolonial patriarchal land structures in Nigeria (Chigbu, 2019a). Redistribution involves measures such as joint land titling, targeted land allocation programmes and inclusive governance systems to correct historical inequalities, while restitution is particularly relevant in post-conflict contexts such as South Sudan, where displaced women require restoration of land rights. Representation requires women's meaningful participation in land governance institutions as decision-makers rather than passive beneficiaries.

Transformation further requires changing the cultural norms, institutional practices and social narratives that sustain patriarchal land governance, including engaging customary leaders, promoting gender-sensitive education and challenging constructions of women as subordinate land claimants. The study also argues that gender assessments should evolve from purely diagnostic tools into mechanisms for transformative governance by informing implementation, accountability and structural reform. Although gender assessments have helped identify barriers and shape policy discussions in South Sudan and Nigeria, their transformative potential remains limited due to weak integration into governance systems (FAO, 2024; IGAD, 2022). In addition, climate justice must be integrated into transformative land justice because climate change intensifies land scarcity, displacement and women's vulnerability. Consequently, climate-smart agricultural policies, secure land tenure and women's participation in environmental governance are essential for equitable land reform.

8. IMPLICATIONS AND POLICY RECOMMENDATIONS

The examples from South Sudan and Nigeria show that gender inequality in land governance is structural, intersectional, and deeply rooted in legal, institutional, and sociocultural systems. Policy responses must therefore move beyond incremental reforms to coordinated, gender-transformative and reparative approaches. Reforms in the legal and institutional spheres should focus on harmonising statutory and customary systems, strengthening enforcement mechanisms, establishing gender-sensitive oversight institutions and building governance capacity. Gender-transformative land policies should feature joint land titling, affirmative action in land governance institutions and targeted redistribution schemes for vulnerable women.

Equally crucial are implementation mechanisms such as gender-disaggregated land data systems, transparent registries, and institutionalised gender assessments that serve as accountability frameworks. However, legal and institutional reforms alone are not sufficient to transform patriarchal social

narratives without community and norm-based interventions. Public awareness campaigns, legal literacy initiatives, grassroots advocacy and engagement with customary authorities should deal with the performative dimensions of inequality by actively challenging and reshaping societal norms that perpetuate gender disparities. Finally, gender equality needs to be integrated into climate-responsive land governance frameworks for adaptation, sustainable agriculture, and environmental justice.

The study's primary policy conclusion is that separate legal interventions cannot achieve gender equality in land governance. This requires a coordinated, intersectional, and transformative approach that simultaneously addresses the legal, institutional, cultural, economic, and environmental systems of exclusion. It is only through such an integrated reparative justice approach that meaningful and sustainable gender-equitable land governance can be achieved.

9. CONCLUSION AND RECOMMENDATION

Conclusion

This paper demonstrates that women's land rights failures in South Sudan and Nigeria are not merely policy implementation problems but manifestations of deeper historical, institutional, and structural injustices. South Sudan reveals how conflict and fragile governance intensify women's dispossession, while Nigeria illustrates how legal pluralism, patriarchal custom, and environmental inequality sustain exclusion despite formal legal protections.

Together, these cases show that gender assessment must move beyond compliance-based diagnostics toward reparative governance. As a reparative instrument, gender assessment can expose systemic injustice, guide redistribution, and transform land institutions in ways that promote substantive equality.

For land reform to be genuinely transformative, policy frameworks must:

- Recognise historical gendered dispossession;
- Address institutionalised customary and statutory inequalities;
- Ensure equitable access to compensation and environmental restoration;
- Promote women's participation in governance;
- Embed climate resilience within gender-responsive land reform.

Ultimately, transformative land justice requires more than legal recognition—it demands structural change. By repositioning gender assessment as a reparative governance mechanism, this study offers a stronger normative and policy contribution to debates on gender, land, and development, particularly by highlighting how integrating climate resilience can

enhance the effectiveness of gender-responsive land reform initiatives.

Recommendation

This study recommends a comprehensive, multi-level reform strategy to promote gender equality and reparative justice in land governance that addresses legal, institutional, sociocultural, economic and environmental dimensions simultaneously. Both South Sudan and Nigeria need to strengthen and harmonise their legal and institutional frameworks to ensure that constitutional guarantees of gender equality are effectively prioritised over discriminatory customary practices. This must be complemented by the codification of customary laws where necessary; the establishment of clear legal hierarchies; the strengthening of independent oversight institutions; and the improvement of gender-sensitive judicial and dispute resolution systems. Institutional capacity building is equally important, including the establishment of gender units within land governance ministries, systematic training for administrators and traditional leaders, and improved intersectoral coordination.

Second, governments need to implement land policies that are explicitly gender-transformative, going beyond gender neutrality to actively redistribute power and resources. This includes requiring or incentivising spouses to hold joint land titles, using affirmative action measures such as gender quotas in land governance institutions, and designing targeted land redistribution or allocation programs for vulnerable groups, such as rural women, households headed by women, and displaced women. Policies of this nature are necessary for redressing historical inequalities and advancing substantive justice.

Third, robust systems for monitoring, evaluation, and accountability will significantly improve implementation mechanisms. Governments should invest in gender-disaggregated land data systems, transparent land registries, digital governance tools, and regular reporting frameworks to monitor outcomes on women's land access and ownership. Gender assessment tools should be institutionalised within national governance systems as ongoing accountability mechanisms, not as one-off policy exercises.

Fourth, legal reform should be accompanied by socio-cultural change. Challenging the performative dimensions of inequality requires working with traditional authorities, supporting grassroots women's organisations, promoting legal literacy campaigns, and transforming public narratives about women's roles in land ownership. Educational systems and public awareness campaigns must proactively promote gender-equitable norms and male allyship in dismantling patriarchal structures.

Finally, land governance reforms should have climate-responsive and environmental justice dimensions. Women's access to secure land tenure is key to climate resilience, sustainable agriculture and fair adaptation strategies. Climate policies in South Sudan and Nigeria must therefore explicitly include gender-sensitive land rights protections, ensure women's participation in environmental governance and address region-specific challenges, including displacement, environmental degradation and resource conflict.

In summary, gender equality in land governance needs coordinated and transformative interventions instead of isolated reforms. The most promising pathway to inclusive, equitable, and sustainable land governance systems is a reparative justice framework that combines legal reform with institutional strengthening, sociocultural transformation, economic redistribution, and climate integration.

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