

ASSESSING THE IMPACTS OF LAND SUCCESSION PRACTICES ON KEEPING LAND INFORMATION UP TO DATE IN KENYA: A CASE STUDY IN SIAYA COUNTY.

JOSEPH RAJUL.

June 2023.

SUPERVISORS:

Dr. M.N LENGOIBONI.

Prof. Mr. Dr. Ir. J.A. ZEVENBERGEN.



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JOSEPH RAJUL

ENSCHDEDE, THE NETHERLANDS, JUNE 2023.

Thesis submitted to the Faculty of Geo-Information Science and Earth Observation of the University of Twente in partial fulfilment of the requirements for the degree of Master of Science in Geo-information Science and Earth Observation.

Specialization: Geoinformation Management for Land Administration.

SUPERVISORS:

Dr. M.N LENGOIBONI

Prof. Mr. Dr. Ir. J.A. ZEVENBERGEN

THESIS ASSESSMENT BOARD:

Dr. M.N KOEVA (Chair).

Dr. M.N LENGOIBONI.

Prof. Mr. Dr. Ir. J.A. ZEVENBERGEN.

Dr. ZAID ABUBAKARI (External Examiner, SDD-UBIDS, Ghana).

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ABSTRACT

This study aimed to assess the impact of land succession practices on keeping land information up to date in Kenya. Most of Africa's rural citizens live in lands registered under great-grandparents who died many decades ago. Maintaining up to date land registers is a growing concern for the security of tenure, enhancement of land markets, durable sustainable planning practices, and policy-making decisions. It demands equally the prompt reporting of land transactions and also an alignment between de facto land rights and official recording systems.

Some of the questions this research aimed to answer were what are the land inheritance practices in Kenya, and how do these practices influence the process of keeping land information up to date? What are some of the gaps between the legal requirements and these practices? What are some innovative and pro-poor approaches to support the process of updating land information? A qualitative research approach, consisting of both primary and secondary data was used to carry out the research. Primary data were collected from 101 households in East Ugenya, Siaya, Kenya using questionnaires and interviews between December 2022-January 2023. In-depth interviews were carried out with the stakeholders involved in the land succession processes. The stakeholders interviewed included three conveyancing lawyers, three land registrars, and the local administration. Key informant interviews were carried out with key individuals with extensive knowledge of Luo land customs. Two focus group discussions were also held on February 2023. Secondary data was collected from existing literature, and legal guidelines from Kenya and the selected countries.

The primary data was then analysed using typical content analysis and Excel to assess the rate of land succession in the study area, the percentage of updating land information and the factors influencing the land succession practices in the study area. This study found that family settings and the conflict between the private and communal land tenure systems were some factors contributing to the non-updating of land information. External and internal factors were found to be intertwined. For example, the family might have sorted out their differences and agreed to undertake the legal process, however, the land offices might be too far, or the cost involved too much for the rural citizens to afford.

Based on the findings, a framework of good practices table to support keeping land information up to date in Kenya and a discussion using the identified factors is developed. These factors are identified using the Environmental, Political, Institutional, Social-Cultural, Technological, Economic and Legal (EPISTEL) framework.

This study highlights the importance of considering land succession practices and communal arrangements when aiming to maintain up to date land registers in Kenya. Understanding the dynamics at play and adapting recording systems to the specific contexts makes it possible to protect tenure rights, foster land markets, and enable sustainable planning practices and policies.

Key Words: Land succession; updating; succession practices; Land information; succession laws.

ACKNOWLEDGEMENTS

I would like to express my sincere gratitude to all the people who have supported me throughout my academic journey and made this thesis possible.

First and foremost, I thank God for His grace and guidance in every step of my research and writing process. Without His blessings, I would not have been able to complete this work.

I am deeply indebted to my sponsors, ITC, the University of Twente, and the Technical University of Kenya for providing me with financial assistance and the opportunity to pursue my studies under the ITC Excellence scholarship program. I appreciate their generosity and trust in me. I also thank my employer, the Technical University of Kenya, for permitting me to study abroad.

I would also like to acknowledge the invaluable help and advice of my supervisors, Dr Monica Lengoiboni and Prof. Mr. Dr. Ir. Jaap Zevenbergen, who have made this research a success. They have inspired me with their passion and expertise, challenged me with constructive feedback, and encouraged me with their patience and kindness. I acknowledge the critical insights given by my chairs during the proposal defence and midterm presentation, Prof Christian Lemmen and Dr Mila Koeva respectively. I am honoured to have worked with them and learned immensely from them.

My heartfelt thanks go to Dr Dimo Todorovski, who has been a source of inspiration and support throughout my academic career in ITC mostly in my first year. He has always been there for me as a friend and a guide, sharing his wisdom and experience with me. He has also introduced me to many opportunities and networks that have enriched my professional development. I must also appreciate the efforts of my “academic father” Dr Samson Ayugi who has been through every step of my academic life. A shout-out to Mr George Konguka, Dr Samson Ayugi and Dr Ann Osio for taking the time to review the first draft of this work.

I am grateful to the student affairs office at ITC for providing me with the necessary resources and facilities for my research. I especially thank Theresa and Jorike for their assistance and cooperation in handling the administrative matters related to my stay abroad.

I would not have been able to conduct my fieldwork without the help of my research assistants, Thomas Oduor (Adera) and Don Onyango, who were reliable and diligent partners in collecting the data. They have also been great companions and friends during the field trips, making them enjoyable and memorable. Despite his busy schedule, I cannot forget to thank the Assistant Chief, Peter Olango, for organizing the focus group discussions.

I owe a special debt of gratitude to the participants in my research, who generously shared their time, opinions, and experiences with me. They have given me valuable insights into my thesis topic and enriched my understanding of the issues. I respect their confidentiality and anonymity and hope that my thesis will contribute to their well-being.

Last but not least, I thank my classmates at the ITC GIMLA group 2021-2023 especially Ahmed (Sudan) and Roy (Ghana) for their friendship and support throughout the course of our studies. They have made this journey more fun and meaningful with their camaraderie and collaboration. I am proud to be part of this amazing cohort.

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1. INTRODUCTION.

1.1. Background and Justification

An up-to-date and complete land administration system (LAS) should be able to capture every land transaction as it happens. This has remained a challenge to many countries worldwide, mostly the global south countries. Around 30% of the population globally has legally registered rights (Hendriks et al., 2018). An antiquated LAS creates a contradiction between what is on the ground and what is in the state registries (Deininger & Hilhorst, 2013). This contradiction might lead to insecurity of tenure, and an increase in land conflicts, and has the potential to reduce government revenue due to a reduction in land rates and rent collection.

According to United Nations (UN) 2015, to reduce poverty by 2030, target 1.4 aims to ensure “That all men and women, in particular, the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate innovative technology and financial services, including microfinance”. The target further detailed in indicator 1.4.2 by the “Proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure”.

To increase the security of tenure, there is a need for an up-to-date LAS. Tenure security is associated with several benefits such as: using the land as collateral; lowering land ownership conflicts; reducing eviction cases; increasing agricultural productivity; improving the security of the land market; and effective land use (Dekker, 2017; Doss & Meinzen-Dick, 2020; Higgins et al., 2018; Holden & Otsuka, 2014; Kwabena Twerefou et al., 2011; Regasa & Molla, 2019; Simbizi et al., 2014; van der Molen & Lemmen, 2012).

Keeping land information up to date is important for efficient land management, effective land markets, and, essential for spatial planning (Biraro et al., 2021). The process is influenced by both internal and external factors. Internal factors include those administrative barriers or facilitators within those organizations dealing with land administration functions in each country e.g., costly procedures while on the other hand, external factors are those facilitators or barriers that influence land administration processes that the land organizations have no control over for example land succession practices.

However, most of the research on keeping land information up to date has focused more on internal factors such as administrative inefficiencies like complex and bureaucratic procedures, high costs of processes, long transaction time, non-transparent activities, and lack of accountability among the public officers within the organizations dealing with land administration (Antonio et al., 2021; Biraro et al., 2021; Biraro & Lemmen, 2015; Deininger & Hilhorst, 2013; Zevenbergen, 2002). Nevertheless, external factors can also impede efforts to keep land information up to date. For example, informal land succession.

Generally, land succession refers to the process of transferring real estate properties from the dead to the living (next of kin). This is because the dead cannot continue enjoying the rights of such properties. Most countries in the world recognize land succession as one of the main methods to acquire land and real properties (Abubakari, 2020). The difficult part is that these land inheritance practices are governed more by the customary laws of a given community which are non-uniform and disconnected. Moreover, in most instances, more than one legal framework governs the land succession process (Tamanaha, 2017). This might include the use of both formal laws and social-customary laws. This is called legal pluralism.

Legal pluralism refers to where more than one legal framework is used simultaneously. Legal pluralism in land registration systems is one of the main reasons why most rural landowners do not update their land information. The landowners navigate between the formal and customary systems according to

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their needs. Although the land might be registered and have an official title in rural areas, land succession is done according to customary laws. The preference for customary systems disregards the ‘mirror principle’ of the formal land registration system. The mirror principle is particularly important as it helps to ensure that whatever is on the ground (de facto) is what is on the registry (de jure) (Zevenbergen, 2002). Customary law is more predominant in most African countries when it comes to land succession (Abubakari, 2020; Berge et al., 2014; Takane, 2008). Different land successions exist which makes it hard to have a uniform system in African countries for example some prefer patrilineal, others matrimonial (Berge et al., 2014).

Most people in the rural areas in the world practice legal pluralism, making it hard to formalize and update their land details in a state registry. In general, most research globally on land succession has been on how customary laws and legal pluralism of land inheritance practices impact women’s land rights, agricultural practices, food security, and human rights (Barbosa et al., 2020; Berge et al., 2014; Brumer, 2008; Carolan, 2018; Cooper, 2010; Leonard et al., 2017; Pitts et al., 2009; Sheridan et al., 2021; Wamboye, 2021).

It is therefore important to study how these land succession practices influence the process of keeping land information up to date.

1.2. Research Problem Statement

Kenya has made tremendous improvements toward the creation of an updated land information management system. Most of the focus has been on the internal streamlining of the processes and procedures within the concerned organizations. However, less emphasis has been on the external drivers to keeping land information up to date. It is therefore important to understand how the external factors are underpinning this process.

Most of the land is acquired via land succession are transacted informally. Therefore, these transactions are not captured/updated in the formal state-backed registers. This makes it hard to prove the legality of land ownership. A good and complete LAS should reflect the reality on the ground by recording all the transaction changes in the land information system (Biraro & Lemmen, 2015). Most of the lands in the rural areas in Kenya are registered in the names of great-grandparents who died many decades ago (Cooper, 2010; Matende & Tawo, 2015). Some advocate for collective land ownership as it is believed to make it hard for irresponsible inheritors to dispose of the land and to prevent the fragmentation of land into less-economical sizes (Matende & Tawo, 2015). However, engaging in land succession early has the potential to reduce land conflicts in later years.

The land succession process should be done promptly to avoid complications in tracing legitimate and credible next of kin. The longer it takes to undertake a land succession process, the more complicated and complex it becomes. The process is simpler if there are direct credible next of kin of a piece of land as the whole parcel is registered under the first and direct next of kin (Matende & Tawo, 2015).

This research explores how the different land succession practices and legal pluralism are influencing the efforts of keeping land information up to date in Kenya. It is important to have official LAS, however, keeping them up to date is a crucial element. An up-to-date LAS may help reduce poverty, increase government revenue, enhance effective spatial planning, and support sustainable development.

1.3. Research Objectives and Research Questions

1.3.1. Main Research Objective

The main objective of this study is to assess how land inheritance practices are influencing the process of updating land information in Siaya County, Kenya.

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1.3.2. Sub-Objectives

1. To describe the land inheritance practices in the legal and social-cultural laws.
 - a) What are the legal land succession practices that exist in Kenya?
 - b) What are the legal system's requirements for updating land information?
 - c) What are the social-cultural land succession practices in East Ugenya Ward, Siaya County?
2. To analyse the barriers to the legal/formal land succession process.
 - a) How do each of the socio-cultural laws align with the legal requirements to support updating the land information in Kenya?
 - b) What are the gaps between social-cultural and legal land succession laws in other countries?
 - c) What are the success factors (evidence-based) after aligning the legal and social-cultural laws in the selected countries?
3. To assess innovative and pro-poor approaches to facilitate the process of keeping land information up to date.
 - a) How have legal requirements (Government) tried to align with socio-cultural laws to support updating the land information in the selected countries?
 - b) What are the innovative and pro-poor approaches used in other countries to keep land information up to date?
 - c) What are the global practices that can be adopted in Kenya in updating land information?

1.4. Conceptual Framework.

The research problem can be represented by the conceptual framework as shown in Figure 1.1 below. The official registration and keeping of land information up to date are internal functions within the Ministry of Lands and Physical Planning in Kenya. These internal factors (Organizational factors) that impede the process include complex and bureaucratic procedures, inefficient standard operating procedures, long transaction time, the prohibitive cost of transactions and lack of transparency and accountability. The external factors on the other hand are the elements that influence the process of keeping land information up to date, but the Ministry of Lands and Physical Planning does not influence them. These include the diverse social-cultural laws of different communities and how they relate to their land.

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These include social norms, cultural practices, statutory laws, and religious practices as shown in Figure 1.1.

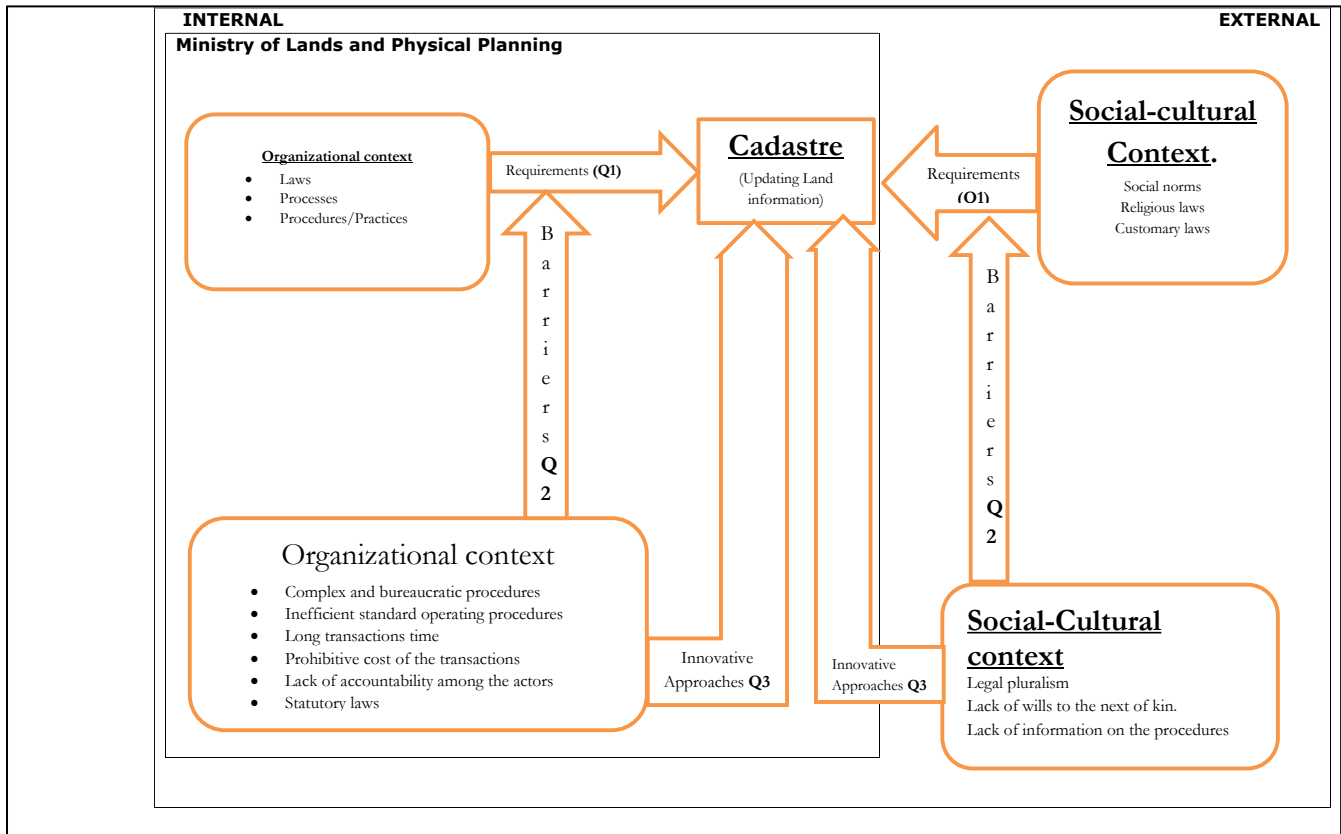


Figure 1:1: The conceptual diagram.

1.5. Thesis Structure

This thesis is organized into six Chapters.

Chapter One: Introduction

Presents the background and justification of the research, states the research problem, provides the research main and sub-objectives, and presents the relevant research questions and the conceptual framework.

Chapter Two: Literature Review

Presents the literature review of the main concepts of the study. The concepts presented include land inheritance practices, legal pluralism, keeping land information up to date, barriers to formal land succession, facilitators to formal land succession, innovative and pro-poor approaches, and best practices on keeping land information up to date.

Chapter Three: Methodology

Presents the research design and approach of the thesis, the description of the study area, the limitation of the data collection process and the ethical consideration.

Chapter Four: Results

Presents the results of the legal and social-cultural land succession in Kenya and a comparative study in Uganda, Tanzania and Rwanda, the barriers to the formal land succession process and an assessment of the innovative and pro-poor approaches to keep land information up to date. A Framework of good practices table to be adopted in Kenya is also presented in this chapter.

Chapter Five: Discussion

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Presents a discussion of the key findings for the results. The key findings for the legal and social-cultural land succession, barriers to the formal land succession and the assessment of the innovative and pro-poor approaches are discussed.

Chapter Six: Conclusion and Recommendation

Presents the conclusions of each Sub-objective, the general conclusion drawn from the main findings, limitations and future research of the study and the recommendations based on the findings.

2. LITERATURE REVIEW.

2.1. Introduction

This chapter gives a literature review of the important concepts of land succession practices and their impacts on keeping land information up to date. Section 2.2 presents the concept of land inheritance practices, section 2.3 presents the legal pluralism concept, section 2.4 presents keeping land information up to date, section 2.5 presents the barriers to the formal land succession, section 2.6 presents facilitators to the formal land succession process, section 2.7 presents the innovative and pro-poor approaches to keeping land information up to date and finally section 2.8 presents best practices for keeping land information up to date in Kenya.

2.2. Land Inheritance Practices

There are several ways through which an individual can acquire land in the world. The main ways include sale, adjudication, and through inheritance, also known as succession. Various legal regimes regulate the land succession. These include statutory law, common law, and customary practices. Tenure practices and passage of properties under these laws are diverse, and in most cases adverse to each other, creating non-uniform, segmented, and sometimes conflicting jurisprudence (Berge et al., 2014; Takane, 2008). These succession laws are fragmented as applied to different social groups both religious and cultural (Berge et al., 2014; Mwimali & Johnsson, 2006).

There are two major broad classifications of land inheritance depending on the legal systems or the social-cultural norms. In the legal systems, there is testate and intestate land succession. Testate land succession refers to a land succession with a valid will to the next of kin, while Intestate land succession refers to a land succession with no valid will to the next of kin (Kituo Cha Sheria, 2015). On the other hand, social-cultural land succession is regulated by the cultures of the given community or sub-ethnic group. In the eighteenth century, in Britain and its old colonies i.e., England, and the current day, America, the generational transfer of real properties involved both partible and impartible land succession practices (Alston & Schapiro, 1984a). Partible refers to where the properties are shared equally by the next of kin while impartible consists chiefly of Ultimogeniture (Succession only to the youngest son) and Primogeniture (Succession only to the old son) (Abubakari, 2020; Alston & Schapiro, 1984b; Haskins, 1941; Keim, 1968).

In the Caribbean, partible land succession practices are most common. In Saint Lucia, a small island in the Eastern Caribbean, Land claims are based on lineage regardless of gender. The children share all the claims equally (Dujon, 1997). However, based on the Napoleon code, only children born within the marriage have the explicit right to inherit the land. Those born outside the marriage have secondary rights to the family land for example the right to cultivate perennial crops (Dujon, 1997).

In most African countries, Social- cultural land succession can further be categorized as matrilineal or patrilineal (Abubakari, 2020; Berge et al., 2014; la Ferrara, 2007; Takane, 2008). Matrilineal refers to the inheritance practice where the next of kin are in the mother's lineage. In this succession practice, children are assumed to belong to the mother therefore they inherit from the mother and the maternal uncles (Cooper, 2012; Deere & Doss, 2008) while Patrilineal refers to the land inheritance practices where the next of kin are traced from the father's lineage (Abubakari, 2020; Mwimali & Johnsson, 2006).

In Kenya, there are various legal and social-cultural land succession practices. These succession laws are fragmented as applied to different social groups both religious and cultural (Mwimali & Johnsson, 2006). Kenya has different succession laws categorized into four systems namely statute law, Islamic law, customary law, and Hindu law. The Succession Act Cap 160 was, therefore, made the substantive law governing issues of inheritance in Kenya. All previous laws and customs that were in place before the passage of this Act are superseded by it. The Indian Succession Act of India (1865), the Hindu Wills Act of India (1870), the Probate and Administration Act (1888), the Hindu Succession Act, the African Wills

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Act (1961), the Administration of Estates by Corporations Act (1892), and the Colonial Probate Act (1892) were all repealed by the Act. The Act prescribed what would be done to the estate of a deceased when one died without leaving a will as well as when the deceased left a will.

The legal land succession process in Kenya is governed by the Land Succession Act Cap 160. This is fundamentally the applicable law dealing with matters of succession in Kenya. This law takes precedence over other laws that could have an effect on matters of succession and must be quoted before them. Immovable property (Land and Real property) in Kenya of a deceased person whatever the residence of that person at the time of his death will be regulated by this Act. Generally, there are two types of legal land succession in Kenya namely i) Testate Succession and ii) Intestate Succession.

Testate Succession

Where a written or spoken will is left by the deceased. The person who passed away has to be of legal age to make the will at the time. According to the Succession Act CAP 160, capacity is defined as: (i) being of sound mind; and (ii) being at least 18 years old (Kituo Cha Sheria, 2015). The decedent must have been aware of and in agreement with the will's provisions.

Intestate Succession

This occurs when there is no will left by the deceased. Where the deceased has left one surviving spouse and a child or children, the surviving spouse shall be entitled to the personal and household effects of the deceased (Kituo Cha Sheria, 2015). He or she receives the intestate property as an inheritance but is unable to sell it. This is due to the spouse holding it on the kids' behalf. If the spouse remarries, he/she loses her entitlement to the intestate property (Kituo Cha Sheria, 2015).

A surviving spouse has the power to transfer the intestate property to the surviving child or children. If a child feels that the surviving spouse has not exercised the power of transfer in a just manner, the child may apply to Court for his/her share of the property (Kituo Cha Sheria, 2015). If underage, an adult will represent the child. If the surviving spouse passes away or remarries, the remaining kid will receive the intestate property, or the remaining children will share it equally (Kituo Cha Sheria, 2015). A surviving spouse may sell the intestate property while holding the decedent's property for the benefit of the children with the approval of all co-guardians and children who are older than 18 or with the permission of the court (Kituo Cha Sheria, 2015).

When it comes to immovable property, the spouse must obtain the court's approval. If a deceased person leaves no surviving spouse but does have a kid or children, the intestate property will either be transferred to the child or distributed evenly among the children (Kituo Cha Sheria, 2015). Where the deceased has left no surviving spouse or children, the intestate property shall be transferred in this order of priority (Kituo Cha Sheria, 2015). Father; or if dead; Mother; or if dead; Siblings, and any child or children of deceased brothers and sisters, in equal shares; or if none; Half-brothers and half-sisters and any child or children of deceased half-brothers and half-sisters, in equal shares; or if none; the person's relatives up to six levels of kinship share the inheritance equally (Kituo Cha Sheria, 2015). The state will handle the intestate property estate if none of the aforementioned parties are left behind by the deceased.

2.3. Legal Pluralism

Generally, our social interactions are shaped by rules. These rules function at distinct levels. These levels might include the state level or the social institution level, for example, municipality, company, society, or even at the family level. Galanter (2013) categorized the latter as Indigenous law and the former as the formal legal system. Above the formal legal system and the Indigenous laws, there are religious laws with very distinct differences (Allott, 1984).

The formal legal system often supersedes other prescriptive forms of the law reducing them to subordinate status (Galanter, 2013; Santos, 2006). In some countries, native law is given a significant reputation and is used together with the formal legal system. In countries that are founded on religion, religious laws and practices attain primacy and may function as the formal legal system (Tamanaha, 2017).

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It is important to note that, native laws in some countries are more prominent than all other forms of law. For example, the kingdom of Eswatini in southern Africa (Hinz, 2009). The cohabitation of these different legal systems creates a situation of legal pluralism.

Legal pluralism refers to where more than one legal framework is used contemporaneously. The concept of legal pluralism is understood by social scientists as normative and cognitive orders generated by social settings and interactions (Meinzen-Dick & Pradhan, 2001). This means that state laws are not the only laws in given social settings. In modelling the interactions of different legal systems in Africa, (Hinz 2009) showed that most African countries have a *regulated dualism*. This means that native laws are given some recognition in the state laws.

According to Prill-Brett (1994), there are three circumstances in which legal pluralism may arise: (a) when people who practise indigenous law are subjected to a foreign-dominant law during colonisation; (b) when these people migrate to an area under state jurisdiction while maintaining their cultural identities; and (c) when a new indigenous law emerges from a dominant state jurisdiction. The first scenario is true for the majority of African nations.

Land inheritance practices are facets of social life. Most of these practices are regulated by customary law, religious laws, state laws, and other forms of semi-independent social fields (Moore, 1972). The convolution that wraps the issues of inheritance has its roots in a disparate set of laws (Abubakari, 2020). In the rural customary areas of Africa and Asia, different laws coincide in the succession process and may even vary across religious and ethnic groups (Abubakari, 2020).

In Kenya, existing sources of law include statutory law, customary law, religious law, and common law. The various sources of law interconnect and are given acknowledgement in unique circumstances. All these four sources of law regulate inheritance systems differently in Kenya.

2.4. Keeping land information up to date.

Land administration is about determining, recording, and disseminating land information (UNECE, 1996). Land information is a vital element in state-backed land tenure systems, valuation systems, land use planning, and land development (Enemark, 2004). Many global south countries have established a LAS through international donor funds. To bring a long-lasting effect on land tenure and improve the land markets, these systems need to be sustainable for future developments (Magis & Zevenbergen, 2014).

Updating is tantamount to data maintenance. It refers to the process of changing textual and spatial elements innate in land information (Biraro & Lemmen, 2015). This process includes different activities, actors, and technologies. Upgrading is distinct from updating. upgrading deals with system redesign for a specific improvement, whereas updating is about renewing the land/spatial information in an existing system (Scheu et al., 2000).

The main purpose of the land administration system (LAS) should be to manage the people-to-land relationship. However, these relationships are dynamic and need to be continuously updated (Abubakari, 2020; Biraro et al., 2021). The progress of a registration system is reliant on the comprehensiveness and punctuality of recording land information changes (Binns & Peter, 1995). Without recording, the system loses significance and is replaced by an informal system (Williamson et al., 2010). While these claims are supposedly basic, keeping most systems updated in practice appears more complex. This is mainly the situation in large donor support initial registration programs where the ensuring system is updated is often a secondary concern (Jing et al., 2013).

The land information updating challenge can be packed up into different elements: a) The time the updating process takes and b) the cost to register the change (Chimhamhiwa et al., 2009; Larsson, 1991). Most of the internal issues, for example, accessibility to land offices, land services, and land information

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influences the process of updating land information (Deininger & Hilhorst, 2013; FAO, 2019; FIG, 1998; Larsson, 1991).

An updated land information is vital for a well-functioning LAS. Even though the first registration in most countries is systematic, the updating process is sporadic (Biraro & Lemmen, 2015). This is because the landowners commence the process by reporting the change through different transfer mechanisms. All the barriers hampering the updating process should be minimized to get the full cooperation of the landowners (Biraro & Lemmen, 2015). If this is not, they may opt for informality and the system will finally lose its value (Biraro & Lemmen, 2015).

2.5. Barriers to the formal land succession

Barriers to formal land succession refer to those factors that discourage landowners to update their land information during the land succession process. Lack of knowledge by the landowners of the process of legal land succession is one of the barriers in Kenya. The many, disconnected, and non-uniform legal frameworks are also a contributing factor in Pakistan (Rehman et al., 2021), and lastly, most people die off without writing wills as investigated in Malaysia (Ghul et al., 2015).

The growing interest in landholding and its associated benefits calls for the need to recognize the continuum of land rights in land registration processes (Abubakari, 2020). The World Bank (1989) in a seminal report advised that nationally enacted land rights are likely to conflict with prevailing customary rights. Bruce and Migot-Adholla (1994) encourage a shift from a land law replacement model to an adaptation model that provides a sympathetic legal and administrative framework for the progression of customary law. This denotes the disparity between customary and statutory law. This disparity is the main cause of the non-registration of land rights. This then further impacts the land information updating process.

In the Caribbean, family lands are preferred as this gives the family a sense of security. This enables the family to have *de facto* rights to the given block of land. The family members are to be involved in the land transfer process, making it difficult for an individual to sell the land (Dujon, 1997). On the other hand, land succession might encourage subdivisions of these family land to private ownership. This might lead to land sizes with non-economical use.

2.6. Facilitators to the formal land Succession

These refer to the enabling factors to promote land inheritance. For example, leaving a will to the next of kin is one of the factors that can facilitate the land succession process as seen in Malaysia (Ghul et al., 2015). Fast-tracking registration and recordation of land rights were also seen as important elements to reduce land succession-related cases as revealed in Ethiopia (Behaylu & Hussain, 2015). These factors might be political, economic, social, environmental, legal, or technological.

2.7. Innovative and Pro-poor Approaches

The term pro-poor is used to refer to the methods of land registration and recordation that considers people living in poverty and was first used in slums (Zevenbergen et al., 2013). This, however, was further extended to the rural poor. This was due to the failure of the conventional land administration systems (Simbizi et al., 2014; Zevenbergen et al., 2013, 2016). The system was expensive, slow, and cumbersome to the poor.

Pro-poor is used to refer to the continuum of land rights, equality of land rights, reduced cost of registration, and involvement of local communities in land registration processes (Zevenbergen et al., 2016). Innovative on the other hand refers to the new ways and ideas of recording land information in a fast, efficient, and inclusive to every citizen in a given country.

2.8. Best practices for keeping land information up to date.

Best practices refer to the accepted code of procedures that are effective to deal with a given element. In this research, best practices refer to those methods that are used by different countries to ensure land information is kept up to date.

Best practices for land administration can be looked at under broad principles. These principles include land policy principles; land administration and cadastral principles; land tenure principles; human resources development principles; institutional principles; spatial data infrastructure principles and technical principles (van der Molen & Lemmen, 2012). Biraro et al., (2021) highlighted decentralization, speed, affordability of cost, political support, continuous assessment of the land registration system, incentives to the landowners, sustainability of the systems, and system connectivity as some of the best practices for updating land information.

2.9. Adopted best practices to keep land information up to date.

Every country's Land Administration system is unique and different. It is therefore important to produce strategies that are study area or country specific. Different countries have deployed different methods to ensure land information is kept up to date. These include the use of mobile land clinics in Rwanda (Centre for Public Impact (CPI), 2017); the waiver of rents and rates during certain months in Kenya (Biraro & Lemmen, 2015). To make new recommendations, the arrangements of the relationship between land to a person must be considered in the given study area. For example, there might be a need for the registration and titling of high-value agricultural land to enable a formal land market. This might not be the same with the arrangement of subsistence farmers (Williamson, 2001).

3. RESEARCH METHODOLOGY.

3.1. Introduction.

This chapter describes how the research objectives are achieved and operationalized. The chapter, therefore, describes the research design and approach in section 3.2, the selection of the study area and its justification in section 3.3, the research approach undertaken pre, during and after fieldwork in section 3.4, the limitation encountered in the data collection process in section 3.5 and the ethical consideration undertaken during the research in 3.6.

3.2. Research Design.

Fundamentally, the main question in this research is descriptive research design. It aims to systematically obtain information to describe a real-life phenomenon. In this case, it seeks to understand how the land succession process takes place and its influence on the process of registering and updating land information details in Kenya. It is therefore imperative to use a case study research design. Case study-based research aims to analyse an existing condition of a particular case with special characteristics (Atmowardoyo, 2018). A case study involves an in-depth analysis of an individual or organisational unit's unique characteristics. A case study helps to investigate empirical real-life contemporary phenomena. In this particular case, a case study will assist in investigating the complex social relationships embedded in land succession and ensuing official land registration and subsequent updating of the land information. In this case, the case study is to investigate and understand the complex social-cultural relations between land succession and its registration in the official registers (Aberdeen, 2013).

In a case study research methodology, more than one source of evidence is used to obtain the best results. Therefore, methodological triangulation was used as both primary and secondary qualitative methods were used to collect data (Bekhet & Zauszniewski, 2012). Different methods of data collection were used depending on the nature of the data.

For the first research Sub-objective, primary data was collected through semi-structured interviews, questionnaires, observations, and focus group discussions. The data was collected from the owners of the real properties, village elders, conveyancing lawyers and officials from the land registries on the types of land succession and land laws regulating the process in Kenya. The data was then analysed using Excel and coded into themes using ATLAS.ti software. In this research, three stages were implemented in the realization of the thesis objective. These include the Pre-fieldwork stage, fieldwork stage and post-fieldwork stage. These details are further discussed in Annex 4: Research Design Workflow. Secondary data was collected from the existing succession literature, the status of court decisions and guidelines, and different case law from Kenya.

The second research sub-objective involved a comparative study. For a comparative literature review on the gaps in formal land succession, existing literature on land succession from five selected countries (Ghana, Namibia, Malawi, Tanzania, and South Africa) was used to study the gaps between the social-cultural and legal land succession among these countries. These countries were selected because of the substantial amount in customary tenure systems which consequently give rise to social-cultural practices. For the barriers to the formal land succession, a search strategy of review articles that include citations with the publication range of 2002-2023 with the title "Land succession" OR "Land Inheritance" OR "land" AND "Gaps" OR "barriers" OR "challenges" with the name of the country was used. Existing literature on the success factors required and the achievement of the alignment of the social-cultural and legal land succession from the selected countries (Rwanda and The Netherlands) were used. These countries were chosen due to simplification and modernization in their land administration systems. For the success factors for alignment, a search strategy of review articles that include citations with a publication range of 2000-2022 with the title "Statutory laws" OR "legal laws" OR "legal pluralism" with the name of the country in comparison was used.

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For the third research Sub-objective, on the comparative literature review study on the assessment of innovative and pro-poor approaches to keeping land information up to date, existing literature from the selected countries (Rwanda, The Netherlands, Sweden, and Australia) was used. These countries were chosen as they have some of the best land administration systems in the world. A search strategy of review articles that include citations with a publication range of 2000-2022 with the title "Innovative" OR "Pro-poor" OR "Fit for purpose" OR "Continuum of land rights" AND "Land Administration" with the name of the country was used.

Purposeful sampling was used after all the search strategies according to the aim of different objectives. The different factors that influence the process of keeping land information were then identified using the (EPISTEL) framework (Kilmann & Beer, 1982; Stouten et al., 2018). A framework of good practices to support updating of land information in Kenya was then developed based on the analysis of the key findings using the EPISTEL framework.

3.3. Description of the study Area

The study was conducted in East Ugenya ward, Siaya county, Kenya. Kenya is a sovereign republic located in East Africa. For this study, the East Ugenya ward is chosen as the study area. This is because of the rural nature of the study area and the homogeneity in the population. The map of the study area is shown in Figure 3.1 below.

The choice of the study area was justified because of the homogeneity in the social-cultural, and economic behaviours toward land succession practices. East Ugenya is majorly dominated by the Luo community who practice subsistence agriculture and fishing as their main economic activities. They are one of the largest populations in Kenya hence this study can be adopted in other areas. Customarily, among the Luo, land was community owned, however, in the 1950s privatisation and commercialisation of land were introduced by the Swynnerton plan (Hebinck & Mango, 2003). Throughout the years, traditional land tenure systems have changed. When a lineage member received the land that had previously belonged to a clan as a usage right, it officially became private or individual property (Hebinck & Mango, 2003; Southall, 1952). According to contemporary state land regulations, private land is registered, and title deeds are granted.

East Ugenya Ward comprises six sub-locations: Kathieno A, Kathieno B, Kathieno C, Ramunde, Sihayi, and Anyiko. According to the Kenya National Bureau of Statistics (KNBS) 2019, the ward population is approximately 30,258. The ward area is approximately 94.3 km².

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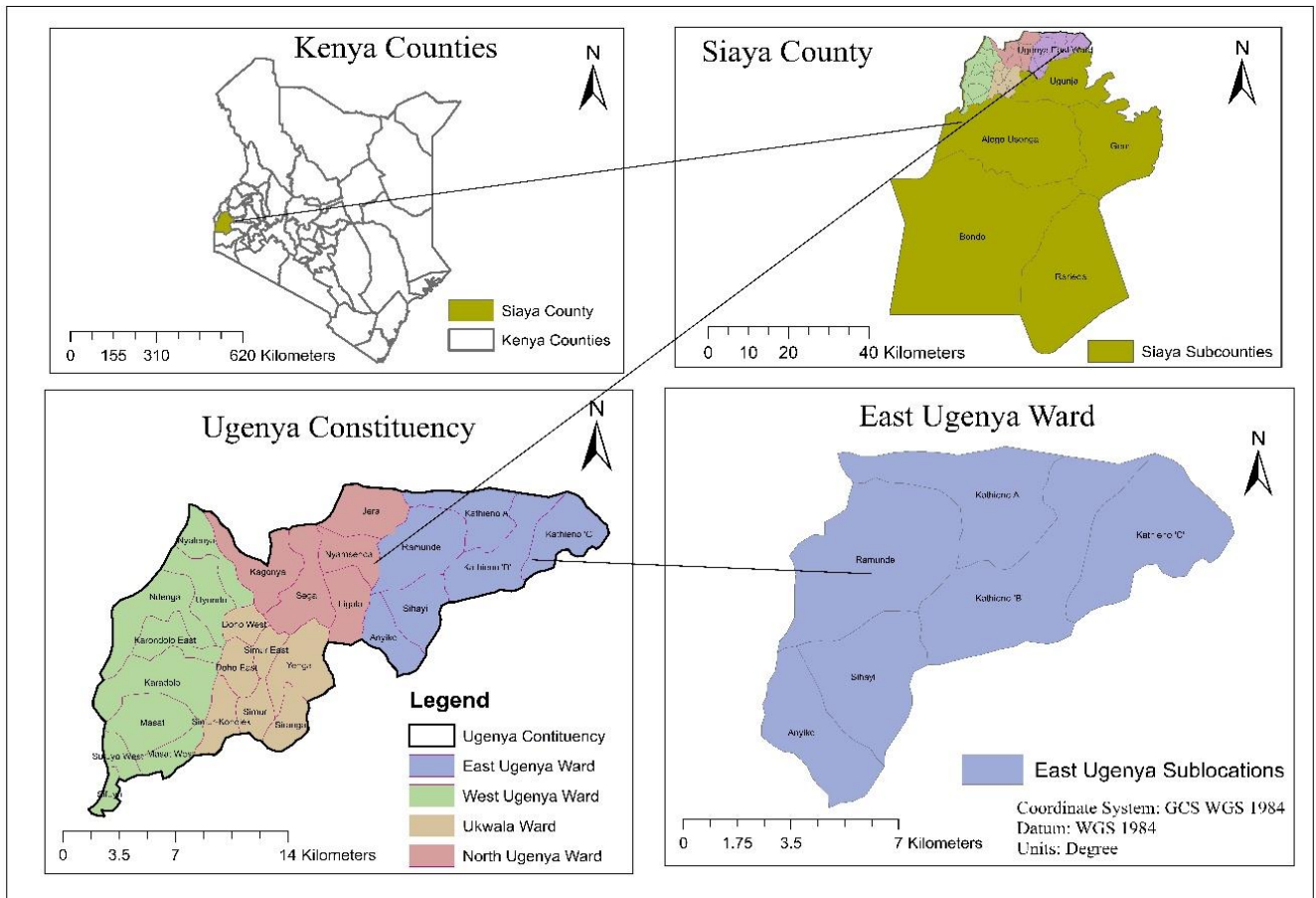


Figure 3:1: The map of the study area.

3.4. Research Approach

3.4.1. Pre-Fieldwork Stage

This stage involved the formulation of the research problem, research objectives and research questions. Moreover, the identification of the study area and the research methodology was designed at this stage. Designing the questionnaires that were used to assess the impacts of land succession was done at this stage.

3.4.1.1. Sampling Techniques

There are two main types of sampling techniques namely probability and non-probability techniques (McCombes, 2022; Zach, 2018). Probability sampling techniques allow better statistical analysis as it involves random selection to represent the whole population while non-probability involves non-random based on the researcher’s convenience on ease of data collection (McCombes, 2022). The research involved qualitative methods. Both sampling techniques were used. Probability sampling enables equal chances of being a sample. The four categories of probability sampling are simple random sampling, systematic sampling, stratified sampling, and cluster sampling (McCombes, 2022).

Non-probability sampling techniques is effective for qualitative and exploratory studies (McCombes, 2022; Zach, 2018). It is further separated into the four groups of snowball sampling, convenience sampling, and purposeful sampling (McCombes, 2022). For this research, snow balling was used because the method aims to give everyone who had experience with land succession a chance to be interviewed.

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An effective purposive sampling also known as expert sampling was used to select the land professional and the local leaders who gave more input on the land succession issues in the study area. These include the conveyancing lawyers, land officers, chiefs, assistant chiefs, and headsmen.

Due to time and resource constraints, 101 households were interviewed. The data collected was spread out in all locations in the study area.

3.4.2. Fieldwork Stage

This stage mainly involved the collection of data using different methods identified in the pre-fieldwork stage. The methods used at this stage must be able to achieve the research objectives. Both primary data and secondary data were used in this research. Primary data were majorly collected using interviews, questionnaires, and focus groups. A purposive sampling technique for the key informant was used. For household data collection, snowballing sampling technique was used. In this regard, one household knew of the next household in the area that in one way or the other could be interested in the research. However, only the landowner in a given household was interviewed. Secondary data through the legal framework that regulates land succession in Kenya, relevant articles, and publications review from the selected countries were used. This is illustrated in Annex 2: Research design matrix and Annex 4: Research Design Workflow.

3.4.2.1. Key informant interview.

This refers to an interview with specific categories of people who have a specific function in the process of land succession process in Kenya. These people include land registrars, conveyancing lawyers, land surveyors, chiefs, and assistant chiefs. A semi-structured interview guide was created for the key informant. 2 land registrars, 3 conveyancing lawyers, 1 county commissioner, 2 assistant county commissioners, traditional clan leaders, 1 chief and 1 assistant chief were interviewed using purposely sampling techniques. The key informants were not recorded however, hand notes were taken.

3.4.2.2. Household Questionnaires.

This refers to the questionnaires that were administered to landowners in the study area based on the research questions and objectives. 101 households were interviewed. These interviews were recorded by the researcher with clear and expressed informed consent of the interviewee for analysis for this research. The data was collected using the conventional snowballing sampling techniques. This data was further filled in the Google Forms.

3.4.2.3. Focus Group Discussion

The focus group discussion aimed to understand people's perceptions, experiences and understanding of a given subject. These people had some experience with the given situation (Kumar, 2019). In this research, land succession procedures. The role of the researcher in this discussion was to guide but not to influence the results of the discussion. Two focus groups were conducted in the study area. One was conducted in Luthehe Catholic church on 15th February 2023 with 30 participants and the second one in Konya Catholic church on 18th February 2023 with 40 participants. The focus groups were selected based on being members of the study area and who had in one way or the other had an encounter with land succession-related cases. Figures 3.2 and 3.3 show the focus group in session.

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Figure 3:2: Focus group discussion in Luthehe catholic church in session on 15th February 2023.



Figure 3:3: Focus group discussion in Konya catholic church in session on 18th February 2023.

3.4.3. Post-Fieldwork Stage

This stage involved the organization, processing and analysis of the data collected. The qualitative data was transcribed and analysed using ATLAS. ti software while quantitative data was analysed using Excel. The quantitative data results were then presented in the descriptive statistical analysis including charts, graphs, and pie charts.

3.5. Limitation of the Data Collection.

There was limited time and resources for the data collection of more household data. Appointment with senior stakeholders for an interview on the formal land succession never materialised. This is because they required “facilitation” to participate in the study. During the focus group discussion, men dominated the discussion even when women were higher than men in the gathering. Most of the respondents used the data collection time to ask questions on how they can be helped with their land-succession related issues. The assumption was also made by the researcher that most land succession issues affected a group of people who had settled and with families (above the age of youths > 30 years), hence youths were not given much consideration in the data collection process.

3.6. Ethical Consideration.

The data collection techniques in this research involved interviews, semi-structured questionnaires, focus group discussions, and a literature review for secondary data. In the process, the researcher respected the dignity of everyone involved in the research while being aware of their age, gender, socioeconomic status, and cultural background. The researcher ensured that the research topic and questions are approved by the supervisors and the ethics review committee.

During the interviews, the interviewees were requested for informed consent and were also informed of the freedom to only answer the questions they like. The researcher ensured that the interviewees are well informed about the interview, the importance of the research project, the legal permission from the institution to carry out the research, how the information obtained will be used and their explicit and written consent. Keep confidential, for those who want their information to be kept private. The researcher declares no conflict of interest. Finally, the researcher ensured that the work produced was of his own and acknowledge and recognize other people’s work and ideas. All work was referenced.

4. RESULTS.

4.1. Introduction

This section presents the results of the research objective and sub-objectives obtained from the household data, expert interviews, focus group discussion and a comparative literature review. The results for Land inheritance practices in both legal and social-cultural laws are presented in section 4.2, the barriers to formal land succession in section 4.3 and innovative and pro-poor approaches to keep land information up to date in section 4.4.

4.2. Results Sub-Objective 1: Land inheritance practices in the legal and social-cultural laws in Kenya.

Sub-objective 1 sorts to find out the land inheritance practices in both legal and social-cultural laws In Kenya. Further, a comparative literature review on the land inheritance practices in Uganda, Tanzania and Rwanda is presented.

a) Means of Land Acquisition.

The data was collected through household interviews. 101 households were interviewed. 100 households owned a piece of land. The major source of land acquisition in the study area was found to be land inheritance. This is illustrated in Figure 4.1 below where 80 households out of 100 households acquired their land via land succession. This, therefore, has an impact on the process of keeping land information up to date.

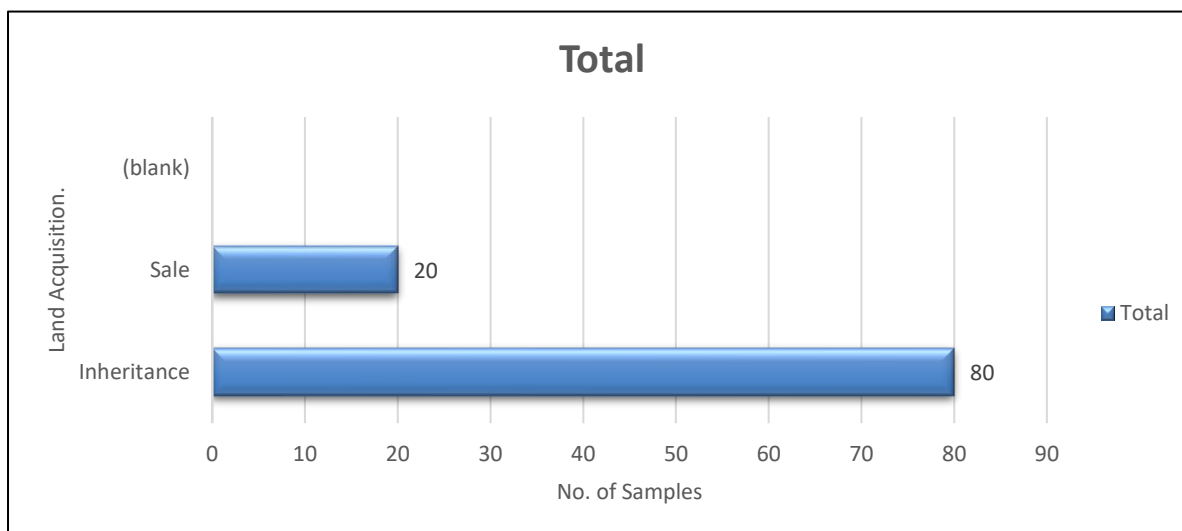


Figure 4.1: Means of land acquisition.

4.2.1. Legal land succession practices in Kenya.

In Kenya, there are two types of the legal land succession process namely Testate and Intestate land succession. The difference can be summarised in Table 1 below.

Table 1: Differences between Testate and Intestate land succession.

Testate succession	Intestate succession
There is a will (Written/oral)	There is no will
The administrator already decided in the will.	Family must agree on the administrator.

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From the 80 households that acquired land via land succession, 63% were without any forms of wills, while 37% had wills. It is clear that majority of the people in Siaya die intestate. This has a negative impact on the process of keeping land information up to date as will be discussed in section 4.3. This is as shown in figure 4.2 below.

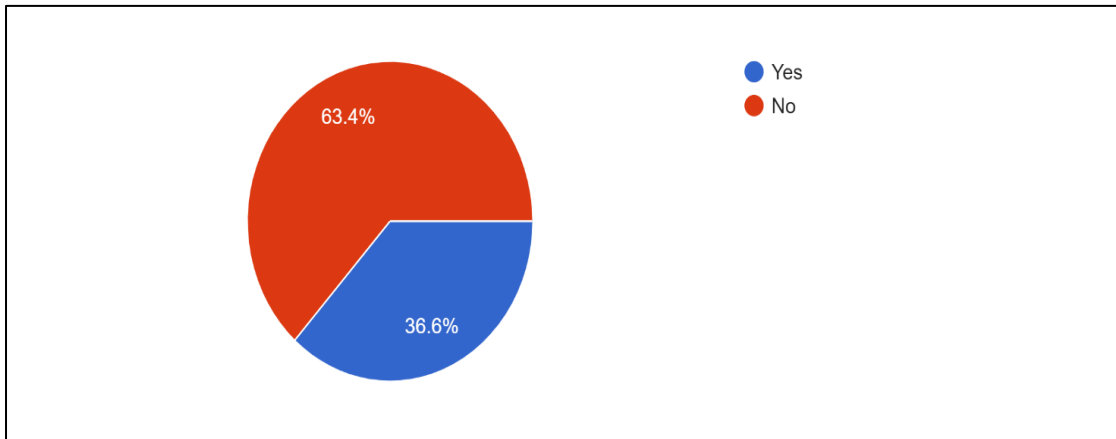


Figure 4.2: Percentage of people who left a will to the next of kin.

a) Reasons for not writing wills.

A majority (63.4%) of the household interviewed indicated that writing wills when alive is believed to be for those who are inviting deaths among themselves in the Luo culture. This is however slowly changing due to modernisation brought about by formal education. Secondly, the majority of the households indicated that they do not write wills because they do not have a lot of wealth to be distributed to the next of kin.

b) Reasons for writing wills.

The households who received wills were necessitated by the parents to be formally educated. The more educated the family was, the more the likelihood of writing a will. Most of the people who indicated to have received the wills had parents who had amassed a large amount of real property.

c) Keeping Land Information up to date.

Out of 80 households who acquired land via land succession, only 17 households had updated their land information, 60 households had not updated their land records and 3 households were in the process. This, therefore, shows that most of the households that acquired land via land succession had not updated their land record. This is shown in Figure 4.3 below.

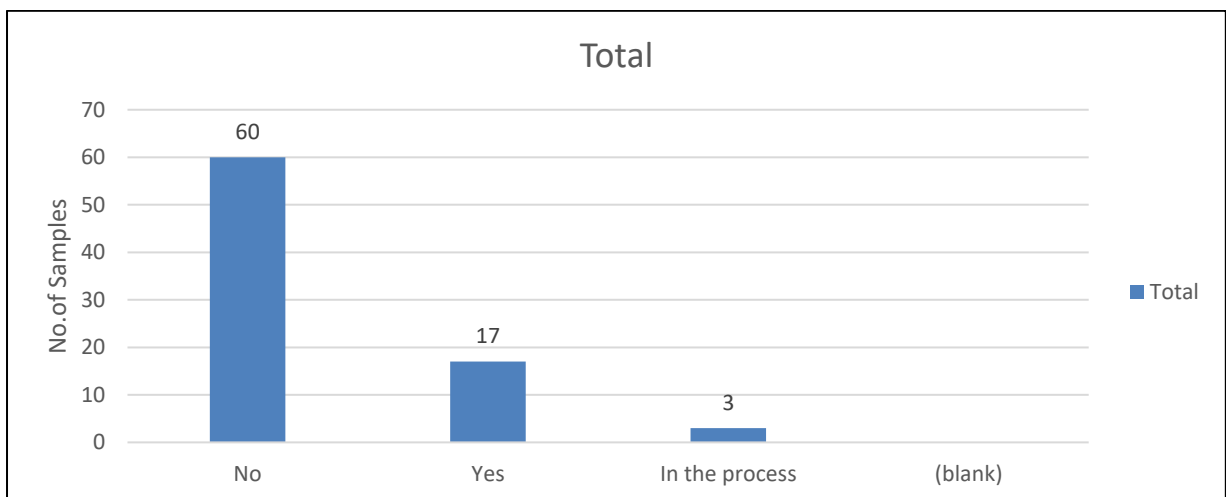


Figure 4.3: Number of households that have updated their land information.

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d) Reasons for not updating land information.

Most of the households interviewed indicated family agreements and/or disputes as the main reason why they have not updated their land information. The larger the family without the will left behind, the slower the process of updating land information. This is because it is not easy for all to agree on the distribution model for all next of kin. Another reason for not updating land information was due to the succession clause at the law courts.

The Luo believe in the spirit of the dead. Most of the Luo believe that they cannot and are not supposed to initiate a case with the dead. This is because they believe that it is disrespectful to the spirit of the deceased which might cause a bad omen to the next of kin. This makes them uncomfortable to follow the court procedure in ensuring that the property devolves to them legally. This myth is propagated by individuals who lack a proper understanding of the law of succession. The appearance of the name of the deceased as a party to the suit makes the public think that it is all about suing the deceased. The title to succession clauses is always in the form shown in Figure 4.4 below.

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT
SUCCESSION CAUSE NO.OF.....
IN THE MATTER OF (DECEASED)
AND
A1ST APPLICANT
B2ND APPLICANT
C3RD RESPONDENT

Figure 4:4: The title of the succession clause in Kenya.

Most of the households also indicated that they were not familiar with the process nor was there someone tasked with the process specifically from the Ministry of Lands to help. The legal land succession process was also described to be lengthy, time-consuming, and expensive. The shortest time for one to undertake the land succession process was indicated to be at least 9 months to 12 months with an average cost of thirty thousand Kenya shillings which is equivalent to 250 euros. This is not affordable for most of the rural inhabitants in Kenya who mostly survive on 2 euros even less per day.

e) Reasons for updating land information.

For those who have updated their land information, they were driven by three main reasons i.e., To initiate a sale/transfer, boundary disputes with their neighbours or to settle an anticipated dispute. For land to be sold, it must be in the name of the transferee. Therefore, they must undertake the land succession process before the transfer. Most boundary disputes culminate in people looking for legal documentation. Those who are formally educated and are economically well off also update their land information as they understand the importance of keeping their land information up to date.

f) The legal land succession process in Kenya.

Data was collected from three conveyancing lawyers. This is because the legal land succession process is carried out in the law court. Legal land succession in Kenya involves several steps. There are two differences between testate and intestate land succession. First, for intestate, the first step is the beneficiaries are supposed to discuss and decide on the administrator. Secondly, in testate land succession, grant of letters of probate are issued to the administrator while grant of letters of administration are issued to the administrator in the intestate land succession. These steps are simplified as in Table 2 below.

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Table 2: The legal land succession procedure in Kenya.

Intestate Land Succession (Without a will)	Testate Land succession (With a will)
<p>Step 0: Deciding on Administrators of Estate of the deceased. The applicants which may include family members, relatives, or any other potential beneficiary, decides and agree who will oversee the sharing of the land of the deceased and puts it in writing.</p>	
<p>Step 1: Seeks recommendation from the Local Administration. The local administration involves a person or institution that can be able to identify the relationship between the deceased person and the applicant(s). In most cases, chief or Assistant chief from where the property is mandated with the responsibilities of identifying the relationship between the deceased and the applicants and if they are known to him. The said applicants must present to the chief/assistant chief their identification documents.</p>	
<p>Step 2: Application for a Death Certificate. The applicants use the recommendation letter from the chief together with a death notification to apply for a death certificate from Registrar of Persons.</p>	
<p>Step 3: Carry out an official Land Search. The applicant(s) fills search forms at the land registry for the parcel of land they are interested in. upon receiving this application, the land registrar issues a signed and stamped official search.</p>	
<p>Step 4: Filling Succession cause. The applicant assembles the following documents and files a succession cause in court: a document identifying the administrator(s) of the estate, IDs of all beneficiaries, a death certificate, a letter from the local administrator, an official search and any other document deemed necessary. After submitting the application to the court of law, the court gazettes the application in the Kenyan Gazette for 90 days. During these 90 days, the court conducts three sitting every after 30 days. The 90 days period allows the applicants to solve any disagreement between themselves. After the elapse of 90 days (and if there are no disputes), the court issues a letter of administration. The court opens another period of at 6 months to allow the applicants to make changes in their decision if any. After 6 months, the court issues a Certificate of Confirmation of Grant.</p>	
<p>Step 5: Application for registration of Letter of Administration (Intestate) or Letter of probate (testate) and Certificate of Confirmation of Grant The applicants apply for registration to the office of the Land Registrar at the Ministry of Lands and Physical Planning. The applicants fill the R.L.7 and R.L.19 used to book registration of (Letter of Administration) in case of intestate or (letter of probate) in case of testate and Certificate of Confirmation of Grant respectively. Upon receiving these applications, the land registrar books them for registration and causes valuation for purposes of paying stamp duty.</p>	
<p>Step 6: Payment of Stamp Duty If the registration is successful, the applicant is requested to make payments (at Land Rent Section) for stamp duty and other registration fees.</p>	
<p>Step 7: Registration/ Issuance of Title The office of the Land registrar can either make a new entry to the original title or issue new titles depending on the details and directions on the Certificate of Confirmation of Grant. The process is supposed to tak9 month to 12 months according to the land conveyancing lawyers, however, this might not be the case.</p>	

g) Comparison between Uganda, Tanzania, and Rwanda legal land succession practices.

The legal land succession procedures in Uganda, Tanzania and Rwanda are similar in some aspects but different in others. Table 3 below summarises the similarities, differences, challenges faced in the process of legal land succession and a list of good practices that can be used to support keeping land information up to date in these countries.

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Table 3: Comparative analysis of the legal land succession in Uganda, Tanzania, and Rwanda.

Similarities	Differences	Challenges	Good practices
<p>All three countries have statutory laws that grant equal inheritance rights to all next of kins and protect the rights of surviving spouses and children. However, customary laws and practices often discriminate against women and children, especially in rural areas where most people rely on land for their livelihoods (Cooper, 2011b; Ezer, 2006; Land Act, 1999; Succession Act Cap 162., 2000; Manirakiza et al., 2019; Moses, 2019; Mulcahy, 2022; Mustafa, 2016)</p>	<p>In Uganda, the Succession Act Cap 162 provides different rules depending on whether the deceased person was married under customary law or statutory law, whether they had children or not, and whether they had other dependents. The Succession Act Cap 162 also recognizes customary inheritance practices as long as they are not contrary to justice, morality, or public policy (The Succession Amendment, 2018; Succession Act Cap 162., 2000)</p>	<p>Lack of awareness and knowledge of the statutory laws and procedures among the beneficiaries and the local authorities.</p> <p>High costs and delays involved in obtaining death certificates, court grants, land titles and other documents.</p> <p>Corruption and fraud among some officials falsify documents.</p> <p>Conflicts and disputes among family members over the distribution of the estate, especially when there are multiple spouses or children.</p>	<p>Sensitizing and educating the public about the importance and benefits of making wills and following the statutory laws and procedures for legal land succession.</p> <p>Simplifying and streamlining the processes and requirements for obtaining death certificates, court grants, land titles and other documents.</p> <p>Reducing or waiving the fees and taxes involved in legal land succession for low-income households.</p>
	<p>In Tanzania, the Indian succession Act of 1865 provides different rules depending on whether the deceased person was a Muslim or a non-Muslim, whether they had children or not, and whether they had other relatives. The Law of Succession Act also recognizes Islamic law as applicable to Muslims (Land Act, 1999; Mustafa, 2016)</p>	<p>Interference and resistance from customary leaders and clan members who may claim rights over the land or disregard the will of the deceased.</p> <p>Lack of gender sensitivity and cultural sensitivity among some judges and magistrates who may apply discriminatory against the community norms.</p>	<p>Enhancing transparency and accountability among officials involved in land administration and management by establishing complaint mechanisms, monitoring systems and codes of conduct.</p> <p>Promoting alternative dispute resolution mechanisms such as mediation, arbitration, and customary courts to resolve conflicts over land succession peacefully and amicably.</p>
	<p>In Rwanda, the reformed succession Act of 2016 provide for different rules depending on whether the deceased person was married under monogamy or polygamy, whether they had children or not, and whether they had other heirs or not. The reformed succession</p>	<p>Lack of coordination and harmonization among different institutions and agencies involved in land administration and management.</p>	<p>Strengthening coordination and harmonization among different institutions and agencies involved in land administration and management by</p>

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	Act 2016 also recognize customary law as applicable to Rwandans of African descent (Centre for Public Impact (CPI), 2017; Manirakiza et al., 2019; Schreiber, 2017)		establishing clear roles, responsibilities, and protocols.
All three countries require the person who wants to administer the estate of a deceased person to apply for a grant of probate or a grant of letters of administration from the court. The applicant has to pay a fee and advertise the application in the official gazette and a newspaper. If there are no objections, the court will issue the grant and the executor or administrator can proceed to distribute the estate according to the will or the law (Cooper, 2012; Land Act, 1999; Succession Act Cap 162., 2000; Manirakiza et al., 2019)	<p>In Uganda, foreigners can only own land if they are investors registered with the Uganda Investment Centre (Moses, 2019; Mulcahy, 2022a; Succession Act Cap 162., 2000)</p> <p>In Tanzania, foreigners can only own land if they are granted derivative rights by the President or if they are citizens of East African Community partner states (Land Act, 1999; Remtula, 2022)</p> <p>In Rwanda, foreigners can only own land if they are investors registered with the Rwanda Development Board (Centre for Public Impact (CPI), 2017; Manirakiza et al., 2019)</p>		

The time taken and the stakeholders involved for the legal land succession procedures in Uganda, Tanzania and Rwanda may vary depending on the complexity of the case, the availability of documents, the cooperation of the beneficiaries and the efficiency of the courts and other institutions involved. Table 4 shows a summary of the approximate time taken and the stakeholders involved in the legal land succession in these countries.

Table 4: Summary of the time taken, and the stakeholders involved in the legal land succession in Uganda, Tanzania, and Rwanda.

Country	Approximate time taken	Stakeholders involved
Rwanda (Cooper, 2011b; Law on Matrimonial Regimes, Liberalities and Successions., 2016; Manirakiza et al., 2019)	3 months- 6 months.	<ul style="list-style-type: none"> i. The deceased person’s family and beneficiaries. ii. The Notary Public or a private administrator. iii. The Primary Court or the Intermediate Court. iv. The Rwanda Land Management and Use Authority. v. The District Land Offices. vi. The Sector Land Committees.

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Tanzania (Hamis, 2022; Mustafa, 2016; Remtula, 2022)	3 months- 1 year.	<ul style="list-style-type: none"> i. The deceased person’s family and beneficiaries ii. The Administrator General or a private administrator. iii. The Probate and Administration of Estates Division of the High Court. iv. The Registrar of Titles - The Ministry of Lands, Housing and Human Settlements Development. v. The District Land and Housing Tribunals. vi. The Ward Tribunals.
Uganda (Moses, 2019; Mulcahy, 2022b; Succession Act Cap 162., 2000; Uganda Law Reform Commission, 2013)	6 months- 2 years.	<ul style="list-style-type: none"> i. The deceased person’s family and beneficiaries. ii. The Administrator General or a private administrator. iii. The Family and Children Court or the High Court. iv. The Uganda Registration Services Bureau. v. The Ministry of Lands, Housing and Urban Development. vi. The District Land Boards and Area Land Committees. vii. The Local Council Courts.

4.2.2. Legal system's requirements for updating land information.

Data was collected from an interview with three conveyancing lawyers via MS Teams and further filled in the questionnaire in Google Forms. This was then transcribed and coded Atlas. Ti. According to the conveyancing lawyers interviewed, the following requirements should be met. The primary data was supported by literature review on the legal guidelines on land succession processes in Kenya. These include:

The inheritors must receive a document from the local chief attesting to the fact that the chief is aware of them and that they have been positively identified as the registered landowner's single and legitimate family administrator or inheritor.

The beneficiaries/applicant(s) must also possess the dead person's death certificate. When a death certificate is issued, the registrar of deaths keeps the deceased person's national identification (ID). If a will exists, which is extremely unlikely, a copy must be provided. Witnesses could support the validity of an unwritten will. Only if the deceased dies away within three months are the unwritten wills considered genuine. Depending on the complexity, it may be required to call on reliable witnesses from the administrator’s clan (Intercurrent (K) Limited, 2023).

A justification for why the property needs to be transferred from the decedent's name to the inheritor's name should be included. The declaration should also clarify if the beneficiaries have the exclusive authority to transfer the property to his or her name and whether any other potential inheritors, such as a stepchild, have objected.

The original and a copy of the ID card are required for the applicant(s). This is to verify the inheritor's identity. To authenticate the property facts, the administrator must additionally include a recent (within three months) land search.

Then, the applicant should fill in succession forms. These are obtained from the county lands office. He/she should pay the application fee to the county lands office. Finally, the applicant(s) should spare time to attend the land control board for partition consent approval with the selected witness(es).

The legal system requirement for updating land information in Kenya is long and a tedious process according to the household interview. The process is indicated to takes over three months to undertake according to the Ministry of Lands standard operating procedures, however, this is rarely the case. The charges are not standardised hence the related officers take advantage of the poor. This process involves many players including private surveyors, land registrars, conveyancing lawyers, local administration, land administration officers, and land valuers. This, therefore, makes it difficult for the common citizens to update their land information.

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a) Comparison between Uganda, Tanzania, and Rwanda on the legal system requirement for updating Land information.

The legal system requirement for updating land information in Uganda, Tanzania and Rwanda can be summarised as shown in the table 5 below.

Table 5: Legal system requirements for updating land information in Uganda, Tanzania, and Rwanda.

Country	Description of the steps	Time taken
Rwanda (Land Portal, 2008; Ministerial Order Determining the Modalities of Land Sharing., 2010)	<p>The landowner has to apply for a survey request at the sector land office and pay the required fees.</p> <p>The sector land office assigns a surveyor to conduct the survey and produce a cadastral map of the land.</p> <p>The surveyor submits the cadastral map and the survey report to the sector land office for approval.</p> <p>The sector land office forwards the approved cadastral map and the survey report to the district land office for verification and issuance of a certificate of title.</p> <p>The district land office registers the land and issues a certificate of title to the landowner.</p>	According to Ministerial Order No. 002/16.01/2010, article 8, a certificate of title shall be issued within 30 days after an application is made.
Tanzania (Land Act, 1999; Remtula, 2022)	<p>The landowner has to apply for a survey request at the district land office and pay the required fees.</p> <p>The district land office assigns a surveyor to conduct the survey and produce a cadastral map of the land.</p> <p>The surveyor submits the cadastral map and the survey report to the district land office for approval.</p> <p>The district land office forwards the approved cadastral map and the survey report to the Ministry of Lands, Housing and Human Settlements Development for verification and issuance of a certificate of title.</p> <p>The Ministry of Lands, Housing and Human Settlements Development registers the land and issues a certificate of title to the landowner.</p>	According to Land Act 1999, section 19(3), a certificate of title shall be issued within 90 days after an application is made.
Uganda (Land (Amendment) Regulations, 2012., 2012; Oput, 2019)	<p>The landowner has to apply for a survey request at the district land office and pay the required fees.</p> <p>The district land office assigns a surveyor to conduct the survey and produce a cadastral map of the land.</p> <p>The surveyor submits the cadastral map and the survey report to the district land office for approval.</p> <p>The district land office forwards the approved cadastral map and the survey report to the Ministry of Lands, Housing and Urban Development for verification and issuance of a certificate of title.</p> <p>The Ministry of Lands, Housing and Urban Development registers the land and issues a certificate of title to the landowner.</p>	According to Oput (2019), the average time taken for issuing a certificate of title under the National Land Information System (NLIS) is 30 days.

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4.2.3. Social-cultural land succession practices in East Ugenya, Siaya.

Data were collected through Literature review on the history of the Luo. This was complemented by the field notes from the key informant who included one senior member of the Luo Council elders, two assistants' chiefs and the chief of East Ugenya location. If land rights were to be obtained, it would be necessary to investigate kinship and the Luo's historical patterns of settlement (Hebinck & Mango, 2003; Ocholla & Shorter, 1978; Southall, 1952). Succession may seem perplexing if one is unfamiliar with the familial ties and the expressions used to illustrate the affiliations of the people affected (Hebinck & Mango, 2003). One of the key informants further adds that land was once intended to be passed down through bloodline rather than being sold.

a) Customary land tenure practises among the Luo.

According to the key informants, the Luo customary land tenure arrangements existed since ancient times though this is changing. The Luo can obtain land rights in three ways. The first one results from the fact that you are a clan member (Hebinck & Mango, 2003). Second, strangers may be given land, and third, slaves and other servants may be given land (Hebinck & Mango, 2003). From the observation made, land is rarely allocated to strangers and slaves in recent times due to the privatisation and commercialisation of land.

i) Land given to clan members.

The Luo's ultimate privilege to possess land starts from belonging to an ethnic group in a region that lineage members and their ancestors battled for (Hebinck & Mango, 2003). The greatest privilege to own land in Luo community belongs to every single member of a clan, who receives unalienable privilege to farm a garden in the region of his gramps (Hebinck & Mango, 2003). Socially, this is significant since it offers a sense of security that comes with residing with family (Hebinck & Mango, 2003).

Natural limits clearly delineate the clan's territory, and the region's peaks and valleys contribute to this demarcation (Hebinck & Mango, 2003). A ridge or a portion of a ridge is often occupied by one clan. This is the region where a man from that clan may now live (Hebinck & Mango, 2003). A male from the said lineage can acquire the right to produce and rear livestock in this territory (Hebinck & Mango, 2003). The head of the homestead is officially the legal owner of the land (Hebinck & Mango, 2003). In turn, he divides the field into portions for his wife or wives while keeping the one nearest to the gate for himself (Hebinck & Mango, 2003; Ocholla & Shorter, 1978). Sons labour in their mother's field(s) before starting their own compounds (Ocholla & Shorter, 1978; Southall, 1952).

From the observations made, this clanship system is rapidly replaced with private land ownership. This is due to the land being seen as a commodity that can be exchanged in a perfect market. The sons buy land elsewhere and abandon their clan land due to family wrangles, and population pressure.

ii) Land allocated to strangers.

A person who comes to the area of a clan other than his own and asks for land is called a *'jidak'* (Hebinck & Mango, 2003). It was challenging to deny a stranger land they requested to provide for their subsistence, according to Luo tradition (Hebinck & Mango, 2003). This custom enables people to coexist with ethnic or clan groups that are different from their own (Ocholla & Shorter, 1978). A person might request land from landlords based on usufruct by virtue of friendship or maternal ties (Hebinck & Mango, 2003). In any instance, the Council of Elders must give its consent to the transaction (Hebinck & Mango, 2003; Southall, 1952).

The lands granted to a foreigner are typically located within the clan's territory (Hebinck & Mango, 2003; Ocholla & Shorter, 1978). The outsider must, in exchange, stand with and support the clan members (Hebinck & Mango, 2003). The foreigner and his descendants only have the ability to renew the usufruct right; they have no right to inherit (Hebinck & Mango, 2003; Ocholla & Shorter, 1978). Because usufruct is perpetual, there have been numerous misunderstandings by both colonial and current government administrations, which have further complicated many land matters today in Kenya (Hebinck & Mango, 2003; Ocholla & Shorter, 1978).

This can still be seen in the Luo custom of boasting about one's virtue (Ocholla & Shorter, 1978). A

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"jidak" was hardly ever ejected from the land that had been "given" to him until very recently, with the exception of particularly desperate situations, therefore, the Luo promoted "jidak" to dwell in their midst (Hebinck & Mango, 2003; Ocholla & Shorter, 1978). The Luo notion of "jidak" and the phrase "chiem gi wadu" meaning "eat what you have with your neighbour" are closely related (Hebinck & Mango, 2003). In contrast, if a "jidak" shown bravery on the battlefield while his clan was at war with another clan, his status was transformed to that of the landowner (Hebinck & Mango, 2003). This is due to the fact that, much like the current member's ancestor, he had battled for the land and was willing to give his life in defense of it (Hebinck & Mango, 2003; Ocholla & Shorter, 1978). The sharing of land to the "jidak" was deliberate to raise their social status rather than as a direct economic endeavor (Hebinck & Mango, 2003; Ocholla & Shorter, 1978). The allocation of land served as a method of both protection and pride (Ocholla & Shorter, 1978).

However, this tradition has been overtaken by events due to the privatisation and commercialisation of land.

iii). Land allocated to slaves.

“Misumba” is a term used to describe a servant, an orphan reared as a foster child, or a slave in the exact sense (Hebinck & Mango, 2003). The homestead head assigns a youngster or an adult man to a "migumba's" residence as if he were her son in the first definition of "misumba." (Hebinck & Mango, 2003). A lady who hasn't given birth to a boy is known as a "migumba." (Hebinck & Mango, 2003). If the adoptive mother offers her "misumba" livestock to get hitched a woman, the “misumba” is supposed to join the clan, and his brood will have acquired the membership of the said clan (Hebinck & Mango, 2003; Ocholla & Shorter, 1978; Southall, 1952). However, if he were to decide someday to revert to his previous kinfolk area, he would also lose his children and their mother in addition to the property (Hebinck & Mango, 2003). In other words, "their mother's bride-wealth was clan wealth," the offspring are recognized as the legal heirs of the father-figure (Ocholla & Shorter, 1978; Southall, 1952). However, the customary practices have been influenced by the introduction of the Swynnerton plan of 1954 that encouraged the privatisation and commercialisation of land for efficient agricultural production.

This has made it possible to sell and buy property independent of the customary law, however, with the requirement of the approval of the village elder council before doing so (Hebinck & Mango, 2003; Ocholla & Shorter, 1978). This is done through the land control boards. Thus, a scenario has developed in which private and customary land tenure systems are integrated into how the Luo manage land, comprehend land concerns, and settle land conflicts (Hebinck & Mango, 2003). Land conflicts currently occur on grounds wherever the dual distinct arrangements of land tenure serve as the backdrop for various circumstances and analyses (Hebinck & Mango, 2003). This situation can be represented as shown in Figure 4.5 below.

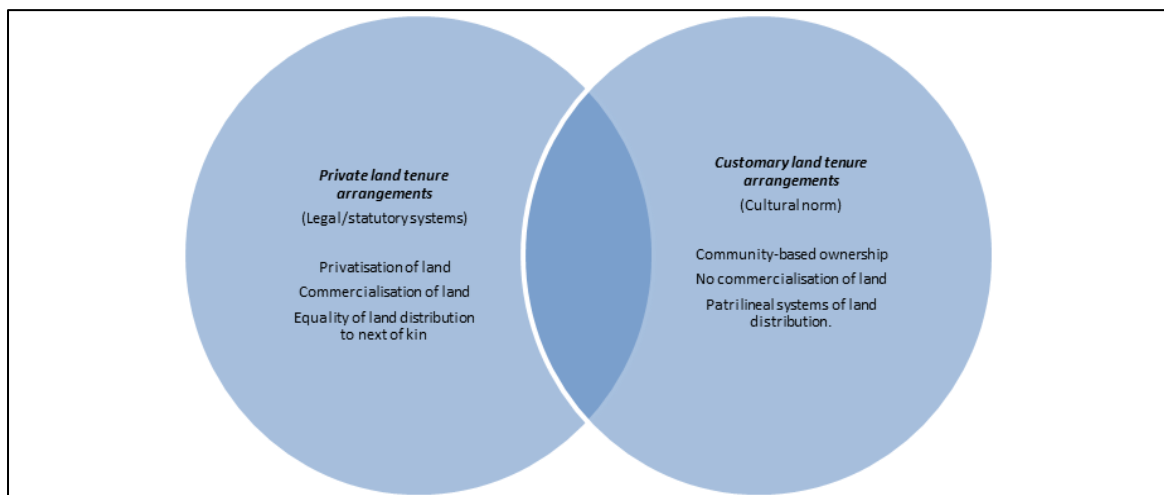


Figure 4.5: Land conflict creation due to the interactions of different land tenure arrangements.

b). Land Inheritance: the social-customary land inheritance in Siaya County.

Out of the 80 households interviewed that acquired land via land succession, 92% acquired their land from the fathers' lineage while 8% received it as gifts from their lineage as shown in Figure 4.6 below. The Luo is inherited land through patrilineal relationships. This will then create a gap between the legal and the social-cultural land succession as will be discussed in section 4.3. This gap in turn has an impact on the process of keeping land information up to date.

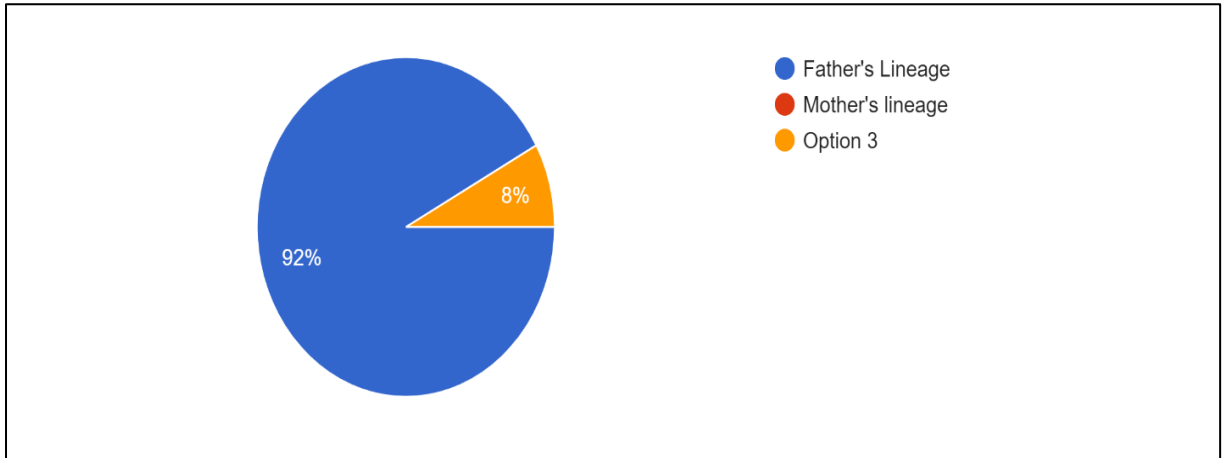


Figure 4.6: Distribution of the social-cultural land succession in Kenya.

Given that it mimics the approach of land succession, the father's technique of allocating land while still alive is an important one to consider (Ocholla & Shorter, 1978; Southall, 1952). The process of social-cultural land inheritance is influenced by the type of family setup i.e., monogamous, or polygamous family.

i). In the context of a monogamous marriage

According to the Key informant notes and literature review on the tradition of the Luo, the sharing of native land involving siblings in a monogamous family is based on a fairly basic and clear-cut basis (Hebinck & Mango, 2003). When there are two or three sons, the elder son inherits the homestead's main structure up to and plus the gate, and the other sons divide the remaining land among themselves (Hebinck & Mango, 2003; Southall, 1952). When the elder sons get married and move to their own lands after the land is split among them, the last son often stays in the pop's complex to tend to him when he is old (Ocholla & Shorter, 1978). His mother's remaining estates and the final piece of real estate known as "his father's orchard" are what he inherits (Hebinck & Mango, 2003).

If a father passes away, whomever marries his wife again as "jater" is the rightful guardian of his estate and his offspring (Hebinck & Mango, 2003). 'Jater's' may either dwell in the village of the deceased or accompany the widow to his own (Hebinck & Mango, 2003; Southall, 1952). The widow will carry on farming her late husband's property (Ocholla & Shorter, 1978; Southall, 1952). The 'jater' is also allowed to use these lands for cultivation on a usufruct basis, however, he is obligated to vacate the land if required once the deceased sons have married and constructed dwellings for themselves (Hebinck & Mango, 2003). When a "jater" is an outsider, the clan leaders of the deceased's clan have the obligation to keep a close eye on him and assign the sons of the deceased their land (Hebinck & Mango, 2003). In most cases, a "jater" is a qualifying patriarch to the off springs and must execute his responsibilities in accordance with customary law (Hebinck & Mango, 2003; Ocholla & Shorter, 1978; Southall, 1952).

Unless there is no male heir, neither the "jater," whether a family member or an outsider, nor the children born to the "jater," have a long-term claim to any of the deceased person's real estate belongings (Hebinck & Mango, 2003; Southall, 1952). It is the eldest son's responsibility to establish homesteads for his younger brothers once he has constructed his own (Hebinck & Mango, 2003; Southall, 1952). Otherwise, the younger brothers might seek remedy from the council of elders (Southall, 1952). A brother can only inherit a blood brother's land if the concluding does not have a male successor (Hebinck & Mango, 2003; Southall, 1952).

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The eldest brother arbitrates arguments amongst the younger brothers and serves as the interim holder of all of the patriarch's estate (Hebinck & Mango, 2003; Southall, 1952). It is only possible to inherit the land of a paternal uncle if he leaves behind no son, full or half-brothers, or either (Hebinck & Mango, 2003; Southall, 1952). The Luo clan follows the closest agnatic kinsman rule, which states that the deceased's nearby male kin within his clan receives the inheritance if no heirs can be discovered from his father, grandfathers, or great-grandfathers (Hebinck & Mango, 2003; Southall, 1952). When a man passes away without leaving a male heir, his property relapse into to his father or the closest agnatic kinsman, with the exception of the share designated for his wife or wives as long as they continue to be in the deceased's lineage (Hebinck & Mango, 2003; Southall, 1952).

When a man passes away without leaving behind a male child and his spouse is incapable to conceive a son via an alternative union, the spouse may 'remarry' a girl, characteristically from her own clan, using her departed partner's livestock or her own livestock, and thereafter request that an adjacent paternal relative of her late spouse to live with the girl to act as a begetter (Ocholla & Shorter, 1978; Southall, 1952). Kids of this confederacy are considered the late husband's legitimate sons and will get his estate's remaining property (Hebinck & Mango, 2003). Anthropologists refer to this type of union as a "ghost marriage." (Hebinck & Mango, 2003; Ocholla & Shorter, 1978).

ii). In the context of a polygamous marriage

Land disputes are more common in polygamous families because inheritance laws are complicated (Hebinck & Mango, 2003). Land is shared in the same lines, but the sons take the area near their mothers' houses within the village (Ocholla & Shorter, 1978). Sons of the oldest wife inherit the portion of the property that, in a monogamous home, would have belonged to the senior son (Hebinck & Mango, 2003; Southall, 1952). Each wife and her boys are seen as a single entity, with rights that are on par with those of a son of a single mother (Hebinck & Mango, 2003; Ocholla & Shorter, 1978; Southall, 1952).

The sons of the next and third spouses claims the shares that, in a monogamous situation, would have been given to the second and third male next of kins, respectively (Hebinck & Mango, 2003; Southall, 1952). Things become more challenging, though, when there are more than three co-wives who are seen as linked daughters (Hebinck & Mango, 2003; Ocholla & Shorter, 1978). They are linked to the first three sets of co-wives (Hebinck & Mango, 2003; Southall, 1952). The male offspring of the oldest wife inherit together with the male offspring of the daughters linked to the oldest wife; the sons of the subsequent wife and the third wife likewise inherit together with the sons of the subsequent and third wives, respectively (Hebinck & Mango, 2003; Southall, 1952). This can be simplified in the organogram Figure 4.7 below.

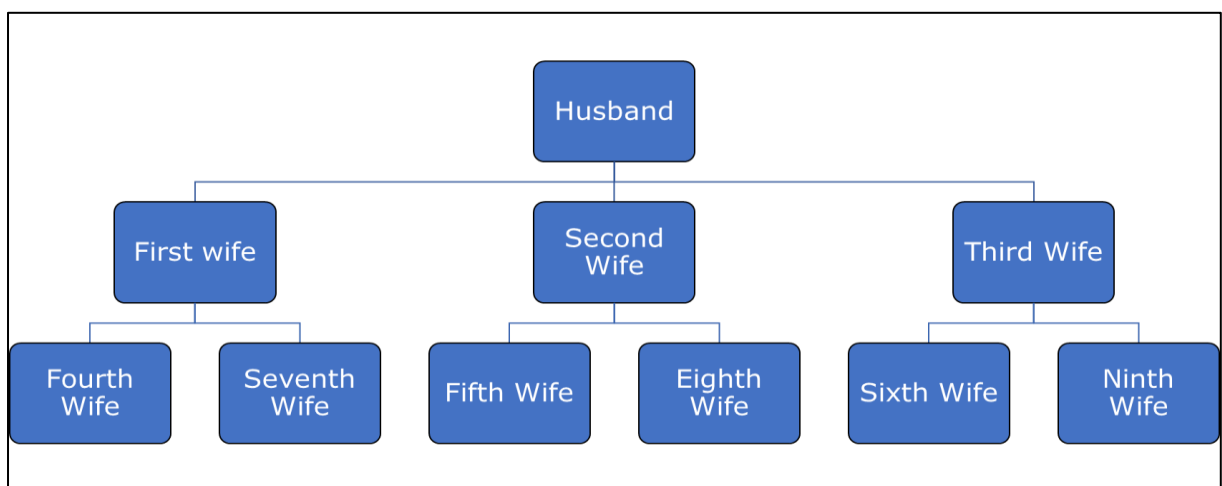


Figure 4.7: Polygamous land inheritance among the Luo.

The Luo clan practices patrilineal inheritance of land, as depicted in figure 4.6 above. Women do not inherit from their fathers or husbands; instead, the husband's brothers receive the assets (Hebinck & Mango, 2003). There are instances where women receive small household items from their mothers-in-

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law (Ocholla & Shorter, 1978).

These land succession practices have a negative impact on keeping land information up to date in Kenya. The principles or goals of land information systems is backed by the principles of land registration (mirror principle; curtain principle and insurance principle) (Zevenbergen, 2002). However, it is clear that the social-cultural practices on land succession does not adhere to these principles.

For example,

(a) Mirror principle; this principle ensures that the register reflect completely and accurately the current facts of a given parcel. Social-cultural land inheritance practices do not enforce registration of transfer of land ownership by social events (death, marriage) hence affecting the mirror principle.

(b) Curtain principle; this principle enables the owner to not check the past transactions to ascertain the legality of the current title. The social-cultural land inheritance practices do not enforce land registration and updating of land information. This therefore means that the curtain principle is neglected as the current landowner has no current title to counter-check its legality.

(c) Insurance principle; this principle provides for compensation against loss caused by fraud or errors of the registrar. The social-cultural land inheritance has shown that rarely do people who have acquired their land through the process register and subsequently update their land information details hence neglecting the insurance principle.

(d) Equity; This research has shown in figure 4.6 that the practices are either patrimonial or matrimonial hence even if the register were to be updated it may be up to date with persons not necessarily with full bundle of rights over land i.e., use right vs control rights.

(e) Sustainability; land registry generate income through land administration process. Land succession through social-cultural do not follow the requisite legal processes as shown in section 4.2.2 and 4.2.3 hence do not pay requisite fees such as registration fees. However, figure 4.6 showed that majority of land ownership is attained through sociocultural rendering registry functions unsustainable.

c) Comparison between Uganda, Tanzania, and Rwanda social-cultural land succession practices.

In Uganda, Tanzania and Rwanda, land inheritance is mainly influenced by the customary system of land tenure, which is based on unwritten rules and traditions that vary from one ethnic group to another. The customary system of land tenure often coexists with the statutory system of land tenure, which is based on written laws and regulations that apply to the whole country (Cooper, 2011b, 2012; FAO, 2010; Landnet-Uganda, 2018). In most cases, the customary system of land inheritance is patriarchal, meaning that land and property are inherited by male descendants along the paternal line. Women are often excluded or discriminated against in inheriting land and property, and their access to and control over land depends on their relationship with men, such as their fathers, husbands, or sons. This makes women vulnerable to losing their land rights in case of divorce, separation, widowhood, or abandonment (Cooper, 2012; FAO, 2010; Landnet-Uganda, 2018; Legal Services Facility, 2017).

However, there are some exceptions to the patriarchal system of land inheritance in Uganda, Tanzania, and Rwanda. For example, some ethnic groups practice matrilineal land inheritance, meaning that land and property are inherited by female descendants along the maternal line. These include the Acholi, Kigezi, Lango and Alur in Uganda; the Yao, Makonde, and Makua in Tanzania; and the Banyarwanda in Rwanda. Women in these groups have more land rights than women in other groups, but they still face challenges such as male dominance, polygamy, and customary divorce (Cooper, 2011b, 2012; FAO, 2010; Uwayezu & Mugiraneza, 2011). Table 6 below summarises the social-cultural land succession practices in selected regions and ethnic groups in Uganda, Rwanda, and Tanzania.

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Table 6: Summary of the social-cultural land succession practices in the selected regions of Uganda, Rwanda, and Tanzania.

Country	Region/Ethnic group
Rwanda	The Northern Province, especially the districts of Gakenke, Musanze, Burera and Rulindo, where the patrilineal system of inheritance is dominant, and women are often excluded from inheriting land and property (Cooper, 2011b; Uwayezu & Mugiraneza, 2011). The Western Province, especially the districts of Rusizi, Nyamasheke and Karongi, where the matrilineal system of inheritance is dominant, and men are often excluded from inheriting land and property (Cooper, 2011b; Uwayezu & Mugiraneza, 2011).
Uganda	The Northern Region, especially the districts of Acholi, Lango and Karamoja, where the customary system of land tenure is dominant, and women are often denied access to and control over land and property (FAO, 2010; Landnet-Uganda, 2018; Nakayi & Twasiime, 2017). The Central Region, especially the districts of Buganda, where the customary system of land tenure is dominant, and women are often discriminated against in inheritance matters (Landnet-Uganda, 2018; Nakayi & Kirya, 2017).
Tanzania	The Zanzibar Region, especially the islands of Unguja and Pemba, where the Islamic law of inheritance is dominant, and women are often given less share of inheritance than men (Hamis, 2022; Legal Services Facility, 2017; Mustafa, 2016). The Lake Zone Region, especially the districts of Mwanza, Shinyanga and Mara, where the customary system of land tenure is dominant, and women are often dispossessed of land and property by their relatives after the death of their husbands (Legal Services Facility, 2017; Mustafa, 2016).

4.2.4. Conclusion: Research Sub-objective 1.

a) What are the legal land succession practices that exist in Kenya?

The legal land succession practices that exist in Kenya are testate and intestate. Intestate land succession is the most common in Kenya. This is because, most of the citizens are not informed of the importance of writing wills. Moreover, majority believe that those who write wills have a lot of wealth to distribute to the next of kin. The general observations made is citizens are willing to undertake the legal land succession process. However, they are not informed of the standard process. From the conveyancing lawyers interviewed, lawyers charge for their services depending on experience hence there were no standard legal fees for the legal land succession process making it hard for the citizens to even plan for it. The cost of undertaking the process also depends on the geographical location. This means that the higher the value of land, the higher the value of the legal charges. Those who writes wills have a formal education and are economically empowered. The legal land succession in Uganda, Rwanda and Tanzania are similar as there are intestate and testate land succession.

b) What are the legal system's requirements for updating land information?

The legal system requirement for updating land information is long and tedious for most of the rural citizens. The process describe above is clear and straight forward. This is not the case in practice in Kenya. There are many processes and players which makes the process opaque. The charges and time for each step is not standardized. This therefore makes it difficult for the common citizen to update their land information. The process takes at least 9 months to decades. There are some similarities in Uganda, Tanzania and Rwanda as described above however many different stakeholders are involved in each country.

c) What are the social-cultural land succession practices in Siaya County, East Ugenya Ward?

The social-cultural land inheritance practiced in East Ugenya, Siaya is patrilineal based on the seniority of the sons. The distribution of land depends on whether the family was monogamous or polygamous. The larger the family setting, the more difficult and slow the process. For the legal land succession process to take place, families must sit down and agree on the distribution model of the real property. This is one of the barriers to the legal land succession as will be discussed in the later section. The social-cultural land succession in most of the communities in Kenya favour men over women. The legal land

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succession recognises all next of kin irrespective of their gender in land successions clauses. This has made those who are pro-traditional not to undertake the legal land succession as they do not recognize women in their customary land succession practices. The social-cultural land succession in Uganda, Rwanda and Tanzania has both matrilineal and patrilineal systems as different communities in different regions within these countries have different social-cultural practices as described above.

4.3. Results Sub-Objective 2: Analysis on the barriers to the legal/formal land succession process.

Sub-objective 2 was to analyse the barriers and gaps to the formal land succession process. Sub-section 4.3.1 identifies the alignment and gaps that are present in Kenya. The data for this sub-section was collected from the literature review, key informant, and focus group. Sub-section 4.3.2 identifies these gaps in selected countries using comparative literature review. Lastly, sub-section 4.3.3 identifies the success factors after the alignment of the legal and social-cultural laws in the selected countries using comparative literature review.

4.3.1. Alignment between socio-cultural laws with the legal requirements to support updating the land information in Kenya.

This section presents the efforts made by the government of Kenya to align the social-cultural and the legal land succession in Kenya. Data used was primarily collected using literature review. The key informant and the focus groups also provided insights on what the government have done on the same theme.

a) The Government's efforts on Alignment between social-cultural and legal laws.

The Kenyan government has recognised social-cultural laws in the Constitution 2010. However, the social-cultural laws are only used where they do not conflict with the supreme law i.e., the Constitution 2010. One example of how socio-cultural laws align with legal requirements in updating land information in Kenya is the requirement for community participation and consent (Kameri-Mbote, 2016).

In many communities, land ownership and use are governed by customary laws that are recognized and respected by the formal legal system. Therefore, any updating of land information must involve consultation and engagement with the affected communities, as their input and consent are necessary for the process to be successful (Kameri-Mbote, 2016). This aligns with legal requirements, such as the Community Land Act of 2016, which mandates that communities be involved in the management and governance of community land.

Another example is the recognition of communal land ownership. In many rural areas of Kenya, land is communally owned and managed by communities. This ownership is recognized in the formal legal system through various laws, such as the Land Act of 2012, which provides for the recognition and protection of community land rights (Mburu, 2017). Therefore, any updating of land information must consider communal land ownership and management practices, as they are an integral part of the socio-cultural fabric of the community.

b) Gaps that require alignment between the social-cultural and legal land laws.

There are still many barriers to this alignment. For example, discrimination against women is often based on customary laws and cultural practices (Kameri-Mbote, 2016). Whereas the Constitution and Succession Act Cap 160 advocates for equality and equity among the next of kin, the social-cultural laws favour a particular gender depending on different communities in Kenya.

It is also evident that there are a lot of informal land transactions. Land is bought and sold through informal arrangements that are not recognized by the formal legal system. This can make it difficult to determine legal ownership and inheritance rights, especially for women who may not have been part of the informal transaction (Mburu, 2017). This also makes it hard to update these land records in the official register if they are undocumented.

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4.3.2. Gaps between social-cultural and legal land succession laws in other countries.

This section presents the gaps between the social-cultural and legal succession laws in selected countries. Five countries were selected for the study. This is because all five countries have substantial land under customary land tenure which gives rise to social-cultural land practices. The countries selected for the study include Ghana, Malawi, Namibia, Tanzania and South Africa.

a). The gaps between social-cultural and legal land succession laws in Ghana.

Traditionally, land in Ghana was passed down through the family lineage, and customary laws governed the succession process. Under these laws, the land was typically passed down based on cultural rules. For example, according to Abubakari (2016), patrilineal systems of inheritance are practised in the Upper West, Upper East, Northern, Volta and Greater Accra regions while matrilineal systems are practised in the Ashanti, Western, Eastern, Central and Brong Ahafo regions.

However, the introduction of statutory laws, particularly the Intestate Succession Law, has created conflicts between traditional cultural practices and the modern legal framework. The Intestate Succession Law provides for the equal distribution of an estate among the deceased's children and spouse, regardless of gender or birth order.

Despite this legal provision, many communities in Ghana still follow traditional cultural practices, which often prioritize male or female inheritance depending on the region (Abubakari, 2020). This has created a situation where there are conflicting norms and practices regarding land succession, leading to disputes and legal challenges.

Another gap is the lack of clear documentation of land ownership, which makes it difficult to establish legal ownership and resolve disputes (Abubakari & Zevenbergen, 2019). Many communities rely on oral tradition and unwritten agreements to establish land ownership, which can create ambiguity and confusion (Yeboah & Shaw, 2013).

b). The gaps between social-cultural and legal land succession laws in Malawi.

Land succession laws are based on customary practices and are deeply rooted in the cultural traditions of different ethnic groups in Malawi (Berge et al., 2014). These practices vary widely depending on the region, but they often prioritize male heirs over female heirs, with land passing down through the patrilineal line (Berge et al., 2014). In some cases, land may also be inherited by a son-in-law or other male relative if there are no male heirs available.

On the other hand, legal land succession laws in Malawi are based on statutory provisions that aim to promote gender equality and protect the rights of women and other vulnerable groups (Peters, 2010). The Constitution of Malawi guarantees equal rights and freedoms to men and women, and the Land Act of 2016 provides for equal access to land and prohibits discrimination based on gender, marital status, or other factors.

However, despite these legal protections, there are significant gaps in their implementation and enforcement. Many rural communities in Malawi are not aware of their legal rights, and traditional cultural practices often take precedence over statutory provisions (Berge et al., 2014; Peters, 2010). Women and other marginalized groups continue to face significant challenges in accessing and controlling land, especially in areas where customary practices are strongly entrenched (Berge et al., 2014).

c). The gaps between social-cultural and legal land succession laws in Tanzania

Land succession laws in Tanzania are primarily based on customary practices and traditions, which can vary widely across different social and cultural groups. This has created gaps between social-cultural practices and legal land succession laws.

Gender inequalities is still a main gap in the land succession practices in Tanzania. In many communities, the land is passed down through male members of the family. Women are often excluded from inheritance, which can leave them vulnerable to poverty and landlessness. Although Tanzania has made

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some progress in addressing gender inequalities in land inheritance, customary practices continue to dominate in many areas, leading to a gap between social and legal norms (Dancer, 2017).

There is a lack of awareness and understanding of the legal land process. Many people in Tanzania, especially in rural areas, are not aware of the legal requirements for land inheritance. This has resulted in disputes and conflicts within families and communities, particularly when there is no clear guidance on how to resolve issues related to land succession (Eck, 2014; Massay, 2014).

There is limited access to legal remedies on land succession matters in Tanzania. Even when legal remedies are available, many people in Tanzania, particularly those in rural areas, have limited access to legal services (Eck, 2014). This can make it difficult for individuals to enforce their legal rights in cases of land inheritance disputes.

d). The gaps between social-cultural and legal land succession laws in Namibia

Namibia's land succession laws are shaped by both its social- cultural practices and its legal framework (Austrian Development Cooperation, 2005). While significant progress has been made in reforming land laws since the country's independence in 1990, there remain gaps between traditional practices and legal requirements, particularly with regard to the role of women in land succession (Austrian Development Cooperation, 2005).

Traditionally, land in Namibia was inherited through the patrilineal line, with male heirs having priority over female heirs. This practice has been challenged by the country's Constitution, which guarantees gender equality and prohibits discrimination on the basis of gender. However, there are still cultural beliefs and practices that limit women's access to land (Austrian Development Cooperation, 2005).

The country's legal framework has also undergone significant changes, with the land reform Act of 1995 and the communal land reform Act of 2002, which aimed to address issues of land ownership and distribution (Austrian Development Cooperation, 2005). However, implementation has been slow and uneven, and there is still a need to address issues such as multiple claims to the same land, landlessness, and the need for transparent and equitable land distribution (Behr et al., 2015).

In addition to these gaps, there are also challenges in the legal recognition of customary land rights, which are often not recognized or adequately protected under the law (Deiningner, 2003). This has led to conflicts between customary landholders and commercial landholders and has also contributed to a lack of investment in rural areas.

e). The gaps between social-cultural and legal land succession laws in South Africa

In South Africa, there are significant gaps between social-cultural, and legal land succession laws. These laws have significant social- cultural implications for communities in South Africa, where land ownership has historically been tied to identity, culture, and social status. One of the main gaps between social-cultural, and legal land succession laws in South Africa is the issue of gender inequality (Cooper, 2010, 2012). While the Constitution of South Africa provides for gender equality, many customary land tenure systems still discriminate against women, preventing them from inheriting land. In some cases, women are only allowed to inherit land through their male relatives, such as their husbands or fathers (Mutangadura, 2004). This perpetuates a cycle of poverty and disadvantage for women, who are often the primary caregivers and providers for their families.

Another gap is the lack of clear and consistent land tenure systems across the country. South Africa has a dual land tenure system, which means that land can be held under either customary or statutory tenure. The lack of clarity and consistency in land tenure systems has led to confusion, disputes, and inequalities in land ownership (Himonga, 2011). There is also a lack of alignment between social-cultural and legal land succession laws. In some cases, customary practices conflict with the formal legal system, creating uncertainty and ambiguity in (Cousins & Claassens, 2006; Ntsebeza, 2004) Claassens, 2006; Ntsebeza, 2004). For example, in some communities, the land is inherited by the youngest son, while in others, it is inherited by the eldest daughter. These practices can conflict with the formal legal system, which may recognize equality or prescribe a different inheritance system.

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4.3.3. Success factors (evidence-based) after aligning the legal and social-cultural laws in the selected countries.

This section presents the success factors after aligning legal and social-cultural inheritance laws in the selected countries. The countries selected for this study are Rwanda and the Netherlands. Rwanda was chosen for the study as it has undergone significant legal and social-cultural reforms in recent years, including the alignment of inheritance laws (Cooper, 2011b; NDEGEYA, 2016). While the Netherlands has also streamlined its legal and social-cultural practices to align with the inheritance laws and is hailed as one of the best cadastres in the world (Xpat.nl, 2023).

a) The success factors after aligning the legal and social-cultural inheritance laws in Rwanda

The success factors after aligning the legal and social-cultural inheritance laws in Rwanda include.

- The availability of strong political will to reform the legal land processes. The government of Rwanda has shown a strong political will to reform the legal system and promote gender equality. This has been evident in the introduction of laws that ensure women's rights to inherit, and the promotion of inheritance planning through education and awareness campaigns (Schreiber, 2017). The campaigns involve land clinics on market days to educate the citizens on the importance of land registration.
- Gender equality agenda reform has been in Rwanda since 1999. Rwanda has made significant progress in promoting gender equality, with a commitment to ensuring that women have equal access to property and inheritance rights. This has been achieved through legislative reforms, such as the 1999 Land Law, which abolished customary laws that discriminated against women's property rights (Casey et al., 2014).
- The use of a community-based approach. Rwanda has adopted a community-based approach to inheritance planning, which involves working with local leaders and community members to promote inheritance planning and resolve disputes (Bizoza & Opio-Omoding, 2021). The community leaders are allowed to use the alternative dispute resolution mechanism to resolve land-related disputes. This approach has helped to build trust and promote acceptance of legal reforms.
- Access to justice has increased in Rwanda. Rwanda has developed a well-functioning legal system, including a specialized inheritance court and a network of paralegals who provide legal services to rural communities on different days announced by the local leaders to their communities. This has helped to increase access to justice and reduce the number of inheritance disputes (Bizoza & Opio-Omoding, 2021).
- Rwanda has invested in increasing trained human resources through education and awareness creation. Rwanda has prioritized education and awareness-raising campaigns like “if you don't have a title, the land is not yours, because registration of land is legally mandatory” to promote inheritance planning and gender equality (Centre for Public Impact (CPI), 2017). The education has been to increase the human capacity to support land registration initiatives. There has been a lot of awareness creation with a focus on changing social norms and attitudes towards inheritance and gender (Centre for Public Impact (CPI), 2017).

b) The success factors after aligning the legal and social-cultural inheritance laws in The Netherlands.

The Netherlands has undergone significant legal and social-cultural changes related to inheritance laws. Some of the success factors in aligning legal and social-cultural inheritance laws in the Netherlands included.

- The Netherlands has implemented several legal reforms aimed at aligning statutory and customary inheritance laws. In 2003, the Netherlands enacted a new inheritance law that introduced important changes to the rules governing inheritance, including the recognition of the surviving spouse's rights, the right of children to inherit, and the right of parents to inherit from their children (Kolkman, 2015).
- The Netherlands has a transparent and efficient legal system that promotes legal certainty and reduces the likelihood of disputes. The use of notaries for inheritance planning and the existence

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of specialized inheritance courts help to ensure that inheritance issues are resolved fairly and efficiently (Kolkman, 2015).

- Women's rights have improved significantly in the Netherlands, and this has had a positive impact on inheritance issues. Women's rights to inherit have been enshrined in law, and legal reforms have made it possible for women to inherit equally with their male siblings.
- The Netherlands has adopted community-based approaches to inheritance issues, which involve working with local leaders and community members to resolve disputes and promote inheritance planning (Access-Netherlands, 2019).

4.3.4. Conclusion Research Sub-objective 2

i) How do each of the socio-cultural laws align with the legal requirements to support updating the land information in Kenya?

It can be concluded that Kenya has made progress in recognizing customary tenure as producing lawful property rights, but there are still challenges in securing land rights for pastoralist communities. Wily (2018) found that Kenya's Community Land Act, 2016, is positive but has legal loopholes that place communities at risk of losing their lands during the formalization process. (Lengoiboni et al., 2010) suggests that Kenya's current land laws and property rights are appropriate for sedentary land usage but do not address how to satisfy pastoralists' land rights in time and space. There is need for a use of the Unified Process Model for developing an integrated land information management system in Kenya as proposed by Mwangi (2011). Finally, (Okembo et al., 2022) highlights the importance of developing an adapted land administration domain model profile for Kenya to manage land information digitally. Overall, the socio-cultural laws in Kenya need to align with the legal requirements to support updating the land information system, especially for the vulnerable, poor and the pastoralist communities.

ii) What are the gaps between social-cultural and legal land succession laws in other countries?

The gaps among the selected countries can be summarised as lack of recognition and protection for customary land tenure systems, gender inequality, lack of documentation and record-keeping, limited access to justice, weak implementation and enforcement of legal frameworks. Even where legal frameworks provide for the recognition and protection of customary land tenure systems and gender equality, implementation and enforcement can be weak due to a range of factors including corruption, weak institutional capacity, and limited resources.

In conclusion, the gaps between social-cultural, and legal land succession laws are complex and multifaceted. Addressing these gaps requires a comprehensive approach that considers the historical and cultural context of land ownership and succession in a given country. This may involve reforming the legal system, strengthening customary land tenure systems, and promoting gender equality and social justice.

iii) What are the success factors (evidence-based) after aligning the legal and social-cultural laws in the selected countries?

The success of aligning the legal and social-cultural inheritance laws has been due to a combination of legal reforms, women's rights advocacy, education and awareness campaigns, community-based approaches, and land rights activism. These factors have helped to promote legal certainty, reduce disputes, and foster social cohesion, especially in addressing gender inequalities in inheritance laws. However, there are still significant challenges in implementing these legal reforms and addressing deep-rooted social-cultural attitudes towards inheritance and gender.

4.4. Results Sub-objective 3: Innovative and Pro-Poor approaches to keep land information up to date.

Sub-objective 3 assesses the innovative and pro-poor approaches used to keep land information up to date. Sub-section 4.4.1 presents the efforts by the government in selected countries to align the legal requirements with the social-cultural laws in selected countries to support keeping land information up to date. Sub-section 4.4.2 identifies the innovative and pro-poor approaches used in the selected countries to keep land information up to date. The data for this sub-section was collected from the

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literature review. Sub-section 4.4.3 adopts innovative and pro-poor approaches that can be used to keep land information up to date in Kenya using a literature review.

4.4.1. How have legal requirements (Government) tried to align with socio-cultural laws to support updating the land information in the selected countries?

This sub-section presents how the government have tried to align its legal requirements to the social-cultural laws to enable updating of land information. The countries selected for this study include Rwanda, Malawi, Namibia, and Ghana. The countries were selected for the study because of the substantial nature of the social-cultural land succession laws due to customary land tenure systems.

a). Government efforts to align the legal requirements with the social-cultural laws to support updating land information in Rwanda.

In Rwanda, the legal requirements have been updated and aligned with socio-cultural inheritance laws to support updating the land information system. This has been done in several ways:

- The government of Rwanda has established a legal framework that recognizes and protects women's inheritance rights. The 1999 Rwandan Constitution and the 2011 Land Law provide equal rights to women and men to own, inherit, and manage land. The laws also require that spouses have equal rights to property acquired during marriage (Schreiber, 2017).
- The government has implemented a land registration program that requires all land to be registered, including customary land. This program aims to improve land tenure security and reduce disputes over land ownership. The land registration process includes community sensitization and mobilization, mapping, and issuance of land titles. The government also established a Land Tenure Regularization (LTR) program to formalize land rights and promote land use planning (Bizoza & Opio-Omoding, 2021).
- The land registration program has adopted a gender-sensitive approach to ensure that women's rights to land are protected. The program allows both spouses to be named on the land title, and women can apply for land titles independently. The program also provides legal aid services to women who face challenges in securing their land rights (Casey et al., 2014).
- The government has recognized and integrated customary law into the legal system to support land registration and inheritance. The law provides for joint inheritance by both male and female heirs, and widows have the right to inherit their deceased husband's property. The government has also established village land committees to resolve disputes related to customary land (Tebbe, 2008).

b). Government efforts to align the legal requirements with the social-cultural laws to support updating land information in Ghana.

In Ghana, efforts have been made to align legal requirements with socio-cultural inheritance laws to support updating the land information system. Here are some ways in which this has been done:

- The Customary Land Secretariats (CLS) were established to support the registration of customary land and provide a platform for resolving land disputes. The CLS operate within the framework of customary law, which recognizes communal ownership and management of land. The CLS work closely with traditional authorities to facilitate the documentation of customary land rights and promote secure land tenure (Abubakari, 2020).
- The government of Ghana implemented the Land Administration Project (LAP) to support the land sector reform agenda. The LAP seeks to promote equitable access to land, improve land administration services, and enhance the efficiency of the land market. The project includes provisions for the integration of customary land rights into the national land administration system (World Bank, 2011).
- The government of Ghana has drafted a Land Use and Spatial Planning Bill that seeks to harmonize the legal framework for land use and management. The bill proposes the establishment of a national land use and spatial planning system that considers customary land tenure systems and promotes sustainable land use practices (Kleemann et al., 2017).
- The Women's Property and Inheritance Rights Program (WPIRP) was implemented to promote gender equality in land ownership and management. The WPIRP provides legal education and

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support to women to assert their property and inheritance rights. The program also works with traditional authorities to promote the recognition of women's land rights under customary law (Cooper, 2011a; Kweku Aba, 2020; UN Women, 2021).

- The government of Ghana has developed a National Land Policy that seeks to promote sustainable land use, equitable access to land, and secure land tenure. The policy recognizes the importance of customary land tenure systems and proposes measures to integrate customary land rights into the national land administration system (National Land Policy., 1999; Msiza & Nkumanda, 2018).

c). Government efforts to align the legal requirements with the social-cultural laws to support updating land information in Malawi.

In Malawi, efforts have been made to align legal requirements with socio-cultural inheritance laws to support updating the land information system. Here are some ways in which this has been done:

- The Customary Land Act 2016 provides for the recognition and protection of customary land rights. The Act recognizes the communal nature of land ownership and provides for the registration of customary land rights. The Act also provides for the establishment of customary land committees to facilitate the registration and management of customary land rights (Badeva, 2018). The government of Malawi has initiated a review of the land laws and policies to promote the recognition of customary land tenure systems. The review seeks to promote the recognition and registration of customary land rights and to enhance the efficiency of the land administration system (Kishindo, 2004).
- The government of Malawi has developed a National Land Policy that seeks to promote equitable access to land, secure land tenure, and sustainable land use. The policy recognizes the importance of customary land tenure systems and proposes measures to integrate customary land rights into the national land administration system (National Land Policy., 2002).
- The Community-Based Land Information System (CBIS) was established to support the registration of customary land rights and provide a platform for resolving land disputes. The CBIS operates within the framework of customary law and works closely with traditional authorities to facilitate the documentation of customary land rights (World Bank, 2009).
- The government of Malawi has implemented measures to promote women's land rights under customary law. The measures include legal education and support to women to assert their land rights, and the promotion of gender-sensitive land policies and practices (Oxfam & Landac, 2018).

d). Government efforts to align the legal requirements with the social-cultural laws to support updating land information in Namibia.

In Namibia, legal requirements have been aligned with socio-cultural inheritance laws to support updating the land information system in several ways:

- The Communal Land Reform Act recognizes and protects customary land rights. It provides for the registration and documentation of customary land rights and the establishment of communal land boards to manage communal land. The Act also provides for the establishment of traditional authorities to regulate and administer communal land (Republic of Namibia, 2002). The Land Reform Act provides for the acquisition and redistribution of land to address historical inequalities in land ownership. The Act recognizes the importance of customary land tenure systems and provides for the recognition and protection of customary land rights (Republic of Namibia, 2002).
- The National Land Policy (1998) recognizes the importance of customary land tenure systems and provides for the integration of customary land rights into the national land administration system. The Policy also seeks to promote equitable access to land and sustainable land use.
- The Gender and Land Reform Implementation Strategy seeks to promote women's land rights under customary law. The Strategy seeks to enhance women's access to land, secure their land tenure, and promote gender-sensitive land policies and practices (Republic of Namibia, 2002).
- The government of Namibia has established a Land Information System to support the management of land information and the registration of land rights. The system includes a

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database of land information, a cadastral map, and a land registration system. The system seeks to promote the registration and documentation of customary land rights and to enhance the efficiency of the land administration system (Anna & Namhindo, 2012; Antonio et al., 2021).

4.4.2. Innovative and pro-poor approaches used in other countries to keep land information up to date.

Rwanda, Netherlands, Australia, and Sweden were selected for this study. This is because Rwanda has done many reforms in land administration processes in Africa. Netherlands, Australia, and Sweden have among the best cadastres in the world hence worth learning from.

a). The innovative and pro-poor approaches used in Rwanda to keep land information.

Rwanda has implemented several innovative and pro-poor approaches to keep land information up to date, which have helped to ensure that land rights are respected and protected, particularly for the poor and marginalized communities. Some of these approaches are:

- The Rwandan government launched a land registration program called Land Tenure Regularization (LTR) in 2008. The LTR program aimed to issue formal land titles to all landholders in the country, including those in informal settlements. This program involved the use of GPS technology and satellite imagery to accurately map land boundaries and establish a land registry database, which has helped to keep land information up to date (Gillingham & Buckle, 2014).
- Rwanda also uses community land use planning. This approach involves local communities working together to create their own land-use plans, which are then integrated into the national land-use policy. This approach helps to ensure that land use decisions are made in a participatory and inclusive manner and that the needs and concerns of poor and marginalized communities are considered (Schreiber, 2017).
- Rwanda has also made use of mobile technology to improve access to land information. The government developed a mobile phone-based land information system, which allows people to access information about land ownership, land use, and land transactions. This system has helped to make land information more accessible, particularly for those in remote and rural areas (Gillingham & Buckle, 2014).
- In 2003, Rwanda established a Land Ombudsman office to handle land-related disputes and grievances. The Land Ombudsman provides a forum for people to resolve land-related disputes in a timely and cost-effective manner, without the need for expensive and time-consuming court cases. This approach has helped to ensure that land disputes are resolved fairly and efficiently, particularly for poor and marginalized communities who may not have access to legal representation (Centre for Public Impact (CPI), 2017; Schreiber, 2017).

b). The innovative and pro-poor approaches used in the Netherlands to keep land information.

The has also implemented several innovative and pro-poor approaches to keep land information up to date. Some of these approaches are:

- The Netherlands has invested heavily in digitalization and has developed a highly advanced digital land information system called the Key Register (Basis registratie Kadaster (BRK). The BRK is a national database that contains the cadastral map and land registry which provides detailed information on land use, land ownership, buildings, and other spatial features, which is updated in real-time. This digitalization has made it easier for citizens and businesses to access land information (GeolinQ, 2023)
- The Dutch government has also made land information available as open data, which has increased transparency and accountability in land management. By making land information open and accessible, it has allowed individuals and communities to use this data to inform decision-making, such as in urban planning, and land-use management (Zevenbergen & Jong, 2002).
- The Dutch government has also implemented a land consolidation program to address fragmentation and optimize land use. Land consolidation involves reorganizing fragmented land parcels to create larger, more efficient farms. This approach has helped to increase productivity and reduce transaction costs for landowners (Van Der Valk, 2002).

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- The Dutch government has also encouraged participatory land-use planning, which involves local communities working together to develop land-use plans that reflect their needs and interests. This approach has helped to ensure that land use decisions are made in a participatory and inclusive manner and that the needs and concerns of poor and marginalized communities are considered (Van Der Vlist, 1998).

c). The innovative and pro-poor approaches used in Sweden to keep land information.

Sweden has also implemented several innovative and pro-poor approaches to keep land information up to date. Some of these approaches are:

- Sweden has invested heavily in digitalization and has developed a highly advanced digital land information system called Lantmäteriet. Lantmäteriet is a comprehensive land information system that provides detailed information on land ownership, land use, and other spatial features. This digitalization has made it easier for citizens and businesses to access land information to make informed decisions (Lantmäteriet, 2023).
- Sweden has also encouraged participatory land-use planning, which involves local communities working together to develop land-use plans that reflect their needs and interests. This approach has helped to ensure that land use decisions are made in a participatory and inclusive manner and that the needs and concerns of poor and marginalized communities are considered (Solbär et al., 2019).
- Sweden has also established land management organizations, such as farmers' cooperatives, to provide support and services to small-scale farmers. These organizations help to strengthen the capacity of small-scale farmers to manage their land effectively and to access markets, credit, and other resources. This ensures that farmers keep their land information up to date (Micheletti, 1987).

d). The innovative and pro-poor approaches used in Australia to keep land information.

Australia has implemented several innovative and pro-poor approaches to keep land information up to date. Some of these approaches are:

- Australia has invested heavily in the digitalization of land information systems. This has resulted in the development of a modern and efficient land information system called the National Cadastre, which provides comprehensive information on land ownership, land use, and other spatial features. This digitalization has made it easier for citizens and businesses to access land information, including poor and marginalized communities (Wallace & Williamson, 2005).
- Australia has implemented a land titling program that aims to ensure secure and transparent land tenure for all Australians. This program has helped to reduce land disputes and has increased the accessibility of land to poor and marginalized communities (Wallace & Williamson, 2005).
- Australia has also established community land trusts, which are community-based organizations that hold land for the benefit of the community. These trusts provide secure and affordable access to land for low-income households and marginalized communities, helping to address issues of housing affordability and access to land (Crabtree, 2014).
- The use of participatory mapping through voluntary Landcare. Landcare refers to grassroots movements of individuals and groups with a shared vision to protect the natural environment of their communities through sustainable land management (Landcare, 2023). Australia has encouraged participatory mapping, which involves local communities working together to map their own land and resources. This approach has helped to ensure that land use decisions are made in a participatory and inclusive manner, and that the needs and concerns of its citizens are considered (Curtis et al., 1999; Curtis & Lockwood, 2000; Simpson & Clifton, 2010).

4.4.3. Global practices that can be adopted in Kenya in updating land information.

The following global practices can be adopted to keep land information up to date in Kenya. These practices are adopted from innovative and pro-poor approaches used in The Netherlands, Australia, Sweden, and Rwanda described in section 4.4.2. The fieldwork data on the question posed to the households and key informants on “What can be done to support the citizens on keep their land information up to date” also provided further insights.

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- **Using unconventional approaches for systematic land registration.**

According to the Ministry of Lands and Physical Planning, by 2015 only 26.1% of land in Kenya is registered. Land registration in Kenya is partially digital. The Land Registration Act of 2012 provides for the establishment of an electronic land registry system in which all documents that are registered or recorded under the Act are maintained. The Land Registration (Electronic Transactions) Regulations of 2020 provide the legal framework for the implementation of the electronic land registry system, which is part of the National Land Information System (NLIS).

The NLIS is a digital platform that aims to provide a single source of comprehensive and accurate land information for the country and to facilitate efficient and transparent land administration and management (Electronic Regulations, 2021). The NLIS integrates various land-related functions such as surveying, mapping, valuation, registration, planning and adjudication. The NLIS also enables users to lodge documents for registration, pay fees, access information and services, and track applications online (Electronic Regulations, 2021).

However, the electronic land registry system is not yet fully operational, and some challenges remain such as inadequate infrastructure, limited public awareness, data security and privacy issues, and legal disputes over land rights. Therefore, a fit-for-purpose approaches can be relevant to fill the gaps in updating land information in Kenya by providing flexible and participatory methods of capturing, recording, and maintaining land data that are affordable, reliable, and scalable.

Fit-for-purpose approaches can also support the harmonization of different land tenure systems, the recognition of customary and informal rights, and the improvement of land governance and service delivery (Musinguzi et al., 2021). This can help to provide security of tenure quickly and affordably for all and to enable control of the use of all land. These countries with good registration and updating of land records have involved local communities in land management, which has helped to improve the accuracy of land information. The Land Tenure Regularization Program in Rwanda involved local communities in the mapping and registration of land, which helped to build trust in the process and improve the accuracy of land information. Sweden has involved local communities in land management which has helped to improve the accuracy of land information through crowdsourcing. Kenya can learn from this by involving local communities in land management and encouraging community participation in land registration and management through cheap and innovative approaches.

- **Establishing the infrastructure for land records updating.**

This is a practice that involves setting up the necessary procedures, mobilization means, institutional and legal frameworks, and technologies to support the continuous updating of land records (Enemark, McLaren, et al., 2021). This can help to enhance the reliability, accessibility, and transparency of land information and land governance processes. Countries with good LAS for example the Netherlands and Rwanda have leveraged technology, particularly mobile applications, and geographic information systems, to improve the accuracy and accessibility of land information. Kenya can adopt this approach by investing in technology that is cheap and innovative like crowdsourcing, and mobile mapping to update and manage land information. This can be done by information and communication technologies that already exist in the Ministry of Lands and Physical Planning and build on it continuously as the need arises.

- **Simplifying and decentralizing land registration services.**

This is a practice that involves reducing the complexity, cost, and time of land registration procedures and making them available at the local level. This can help to increase the demand and supply of land registration services and to improve the convenience and affordability for the users. These countries have simplified their land registration systems. This has been done by streamlining the processes and the stakeholders involved. This then, makes it easier for individuals and organizations to register and keep their land information up to date. For example, during the educational visit to the Dutch Kadaster in Zwolle, the land transfer registration process was explained to take approximately 6 days to finalise in the Netherlands according to the Kadaster Legal officer presentation. Sweden has a policy of making land information available to the public, which promotes transparency and accountability in land

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management. Kenya can adopt this approach by promoting public access to land information. This can be done through open data portals. Kenya can learn from this by simplifying its land registration processes to reduce bureaucracy and corruption.

For example, during the internship in Kenya, an individual had changed the name of the legal land ownership instead of undertaking the legal land succession process. This means that he became the sole owner of his late father's real property excluding his other three brothers. His name was "David" and his late father's name was "Daudi". The change of name is supposed to be approved by the land control board. This was done because the local administration has confirmed the same in writing. However, there was no affidavit from the advocate confirming the legal identity of the person. Due to non-transparent processes, this was approved. After all, to the board "Daudi" is a Swahili name which translates to "David" in English.

Five years later, David sold the land without the consent of his three brothers and moved to a different city. The brothers who were staying in different towns were perturbed when they were informed by the neighbours that someone was already putting a structure on their land. They decided to put the caution and moved to court, years later, the case is still in court. There are so many cases of the same nature mostly affecting widows and total orphans and in particular where there were no written wills according to one of the lands officials.

- **Training and empowering local staff and communities.**

This is a practice that involves providing capacity development and awareness raising for the local staff and communities involved in land registration and updating. This can help to improve the quality and efficiency of land records updating and to foster trust and participation among the stakeholders. Countries selected above e.g., Rwanda have invested in training and capacity building to support the implementation of its Land Tenure Regularization Program. Kenya can adopt this approach by investing in training and capacity building for land administrators and other stakeholders involved in the management and updating of land information. There are very few skilled land administration officers who can act as "change agents" in Kenya (Zevenbergen et al., 2016).

- **Assessing and improving system effectiveness**

This is a practice that involves monitoring and evaluating the performance and impact of land records updating and adjusting as needed. This can help to ensure the technical and financial sustainability of land records updating and to address any challenges or gaps that may arise. This involves collaboration between different organisations. In the Netherlands, various government agencies and municipalities work together to update and maintain land information. This collaboration helps to ensure that land information is accurate and up to date. Rwanda established a dedicated agency, the Rwanda Land Management and Use Authority, to oversee the implementation of its land tenure regularization program. This agency works closely with other government agencies to update and manage land information. Kenya can adopt this approach by promoting collaboration among government agencies responsible for land management. This will help to reduce the government land silos.

4.4.4. Conclusion: Research Sub-Objective 3

a) How have legal requirements (Government) tried to align with social-cultural laws to support updating the land information in the selected countries?

Overall, the government of the selected countries have tried to align their legal requirements with the social-cultural laws to enable the process of keeping land information up to date. These efforts include the recognition of the importance of customary land tenure systems and implemented measures to recognize and protect customary land rights, promote equitable access to land, and support sustainable land use. This has resulted in increased land tenure security, reduced disputes over land ownership, and improved women's land rights.

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b) What are the innovative and pro-poor approaches used in other countries to keep land information up to date?

In summary, different innovative and pro-poor approaches are used in different countries. These approaches include Participatory mapping using the community members as in Rwanda and Sweden, the creation of a land Ombudsman office as used in Rwanda, Participatory Land-Use Planning as in Sweden and the Netherlands, digitisation in land registration processes in Rwanda, Australia, Sweden and the Netherlands, use of innovative technologies e.g., crowdsourcing as in Sweden.

c) What are the global practices that can be adopted in Kenya in updating land information?

The best global practices adopted in Kenya can be summarised as using unconventional approaches for systematic land registration, establishing infrastructure for land records updating, simplifying, and decentralizing land registration services, Training and empowering local staff and communities, and having a mechanism for Assessing and improving system effectiveness. These best practices are developed from the selected countries and from the fieldwork.

4.5. Framework of Good Practices for updating Land information in Kenya.

This section presents a framework of good practices for updating land information in Kenya. This framework is based on the recommendations from the fieldwork on what the government should do to encourage citizens to update and keep their land information up to date from the households and the expert interviews. Innovative and Pro-poor approaches from the selected countries in section 4.4.2 and existing literature on good practices for keeping land information up to date in particular (Biraro et al., 2021) have been used to develop the framework. The framework was developed based on the analysis of the Environmental, Political, Institutional, Social-cultural, Technological, Economic and Legal factors (EPISTEL framework) that interact and influence the process of keeping land information up to date. The EPISTEL framework was best suited for this analysis as it tends to investigate a situational analysis that is highly dynamic as land transactions (Kilmann & Beer, 1982; Stouten et al., 2018).

According to Kilmann and Beer (1982), Environmental factors refer to the influence of natural and environmental conditions, such as climate change, pollution, and sustainability, on an organization's operations. Political factors refer to the influence of government policies, regulations, and political stability on an organization's operations. In this regard, the Ministry of Lands and Physical Planning. Institutional factors are the rules, norms, structures, and processes that shape the behaviour and interactions of actors involved in the Ministry of Lands and Physical Planning in Kenya. Social-cultural factors refer to the influence of social and cultural trends and norms on an organization's operations. Technological factors refer to the impact of technological innovations and advancements on an organization's operations. Economic factors refer to the impact of economic conditions, in this case, the standardization and the affordability of the costs of land-related processes by every citizen. Legal factors refer to the influence of laws and regulations, data privacy laws, and consumer protection laws, on an organization's operations. Table 3 below shows the framework of good practices for updating land information in Kenya.

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Table 7: Framework of Good Practices for updating land information in Kenya.

Environmental factors	Political factors	Institutional factors	Social-cultural factors	Technological factors	Economic factors	Legal factors
<p>i) Integrating environmental indicators e.g., land degradation neutrality.</p> <p>ii) Promoting sustainable land management practices.</p> <p>iii) Participatory land use planning.</p>	<p>i) Political support and Good Governance for land services.</p> <p>ii) Encourage Bottom-up land law formulation</p> <p>iii) Build a Strong institution for updating land info.</p> <p>iv) Enable adequate funding to support the institution involved.</p> <p>v) Effective mentoring and evaluation systems for land administration systems.</p>	<p>i) Building trust and cooperation among different levels and sectors of government, civil society, private sector, and development partners involved in land governance.</p> <p>ii) Improvement in stakeholders' consultation and public awareness.</p> <p>iii). Well-organized administrative structures for land services.</p> <p>iv) Decentralization of land offices and services.</p> <p>V) Enhancing the capacity and skills of data producers and users.</p>	<p>i) Promote public participation in land information management.</p> <p>ii) Encourage family-oriented dispute resolution on land.</p> <p>iii) Fosters a culture of accountability and transparency among the actors involved.</p> <p>iv) Training and capacity building among the stakeholders involved.</p> <p>V) Recognizing and protecting the diverse forms of land tenure.</p> <p>vi) Supporting the formalization and registration of land rights for vulnerable groups, such as women.</p>	<p>i) Expansion of the IT infrastructure systems to facilitate updating land information.</p> <p>ii) Development of open Geoportals for land info dissemination.</p> <p>iii) Ensuring the compatibility and interoperability of different technologies used by different actors involved in updating land information.</p> <p>iv) Developing a robust and resilient infrastructure that supports the operation and maintenance of technologies used for updating land information.</p> <p>V) Improve communication and dissemination of land information to different audiences and purposes e.g., reports, and dashboards</p>	<p>i) Build a sustainable business model to support keeping land info up to date.</p> <p>ii) Standardized cost for land processes including land succession.</p> <p>iii) Promote private sector investment in land administration systems.</p> <p>iv) Invest in innovative digital mapping technologies.</p> <p>v) Provision of incentives to encourage land info updating process.</p> <p>vi). Measuring economic impacts of updating land information activities on different sectors, stakeholders.</p>	<p>i) Strong practical legal framework</p> <p>ii) Simplification of the land processes' legal framework</p> <p>iii) Encourage Alternative dispute resolution mechanisms</p> <p>iv) Legal requirement for compulsory but free land information updating timelines.</p>

5. DISCUSSION.

5.1. Introduction

The main aim of the study was to assess the impacts of land succession practices on keeping land information up to date. This section discusses the main findings of the results in context with the literature provided. Section 5.2 presents the discussion of the main findings of the land inheritance practices in Kenya, section 5.3 discusses the main findings of the barriers to the formal land succession, section 5.4 discusses the innovative and pro-poor approaches to support keeping land information up to date and lastly, 5.5 presents a framework of good practices for updating land information in Kenya.

5.2. Sub-objective 1- Land inheritance practices in the legal and social-cultural laws in Kenya.

From the results, majority of the respondents acquired their land via land succession. This is in line with previous literature that concluded that most rural African resident acquired their land via the same method (Abubakari, 2020). The land succession process in Kenya is governed by the Succession Act Cap 160. The majority of the residents die off without writing wills (intestate succession). This then means that such, families must decide, and agree on how the land will be distributed. This further slows down the process of updating land information as it is hard for larger families to agree on the same fast, this was also indicated as one of the limiting factors in Malaysia (Ghul et al., 2015). Most of the respondents who acquired their land via the succession process have not updated their land information (Abubakari & Zevenbergen, 2019). The legal land succession is time consuming and expensive (Cooper, 2012). This discourages most of the respondents to undertake the land succession process.

The social-cultural land succession practised in the study area is patrilineal. The patrilineal land succession is based on seniority. This is the most common type of land succession among Kenyan communities as seen in most African countries (Abubakari, 2020; Takane, 2008). The speed at which the process takes place depends majorly on the family arrangements and agreements. Larger families tend to take a lot of time to undertake formal legal land succession. It is important to note that the process of updating land information under land succession involves many players as seen in the results. Merging some of the actors and simplifying the procedures involved might help to reduce the time and cost of undertaking the process (Biraro et al., 2021). This in turn might encourage the citizens to update land information. The introduction of compulsory but free incentives for registration and updating of land information acquired via land succession might help to support the process of keeping land information up to date in Kenya (Biraro et al., 2021).

5.3. Sub-objective 2- Analysis on the barriers to the formal land succession process.

The patrilineal nature of land succession implies exclusion for the other gender. In the Succession Act Cap 160 and the Kenyan Constitution, gender equality and equity is enshrined. This is therefore a clear gap that needs alignment to support keeping land information up to date in Kenya. The disconnect between the legal stipulations and the actual practice is very clear in the Kenyan land inheritance systems. This is also common in many African countries as shown in section 4.4 due to the 'implementation gap' (Abubakari et al., 2018). There is need for a bottom-up law making especially in matters of land succession in Kenya. This might help to reduce the implementation deficit as seen in the results.

These cultural norms sometimes clash with formal legal systems that prioritize individual property rights and inheritance laws that may not take into account local customs and traditions (Abubakari, 2020; Coldham, 1978; Cooper, 2012). Aligning the social-cultural and legal inheritance laws can have several potential benefits, such as promoting greater legal certainty and fairness, reducing disputes and conflicts, and fostering social cohesion (Cooper, 2012; Deininger, 2003). However, the success of such an alignment would depend on a variety of factors, including:

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- Even if laws are aligned, their success depends on how effectively they are implemented and enforced. Countries need to ensure that their legal systems have the capacity to handle inheritance disputes and that the judiciary is well-trained and impartial (Cooper, 2012).
- The success of inheritance laws also depends on the level of public awareness and education on the importance of inheritance planning, the legal requirements, and the consequences of not planning adequately (Schreiber, 2017).
- Inheritance laws that are aligned with the social-cultural norms of the society are more likely to be accepted and adhered to. Therefore, it is essential to consider the cultural context of each country or religion when designing and implementing inheritance laws. Bottom-up law-making approaches are encouraged (Cooper, 2012).
- Political stability is an important factor in the success of inheritance laws, as political instability can lead to uncertainty and instability in the legal system (Schreiber, 2017).
- Economic development can also influence the success of inheritance laws, as wealthier countries may have better-developed legal systems, greater access to legal services, and a higher level of public awareness about inheritance planning (Bizoza & Opio-Omoding, 2021).

5.4. Sub-objective 3- Assessment of Innovative and pro-poor approaches to keep land information up to date.

From the results, different countries have tried to align their legal systems to support keeping land information up to date. The major efforts have been to recognize the customary systems in African systems. Though most of the selected countries have recognized customary systems, most have not been aligned fully with their legal systems. This further slows down the process of keeping land information up to date. This discussion explores innovative and pro-poor approaches that can support the process of keeping land information up to date. The following are some of the methods used in the selected countries to keep their land information up to date.

- Participatory mapping involves collaborating with community members to collectively map and document their land rights, boundaries, and other relevant information (Biraro & Lemmen, 2015; Curtis et al., 1999; Schreiber, 2017). This approach empowers communities, enhances their sense of ownership, and ensures that their knowledge and perspectives are integrated into land information systems as seen in Rwanda, Sweden, and Australia. Collaborative efforts with grassroots organizations, NGOs, and community-based paralegals can facilitate this process (Biraro & Lemmen, 2015; Schreiber, 2017). This approach ensures that the land administration systems are fit for the purpose of achieving tenure security for all, rather than following rigid standards and procedures. It can be used to address the gaps and challenges experienced in the Kenyan conventional land administration systems and to adapt to the local context and needs (Enemark, McLaren, et al., 2021).
- The widespread use of mobile technology and geospatial tools has opened up new opportunities for updating and maintaining land information, even in remote and resource-constrained areas. Mobile applications and tools, such as GPS-enabled smartphones, can enable field data collection, georeferencing, and real-time updating of land information (Biraro & Lemmen, 2015). Additionally, crowd-sourcing platforms and open data initiatives can involve citizens in contributing to the accuracy and completeness of land information as seen in Sweden and the Netherlands respectively (Bermudez, 2017; Caesar, 2016; Land Portal Org, 2018).
- In many regions in Africa, traditional and informal land tenure systems coexist with formal land administration structures. Recognizing and integrating traditional systems into the land information management process can enhance legitimacy. It can be used to complement or supplement formal land administration systems and to increase tenure security and transparency for the poor (Hendriks et al., 2018). This approach involves mapping customary boundaries, documenting traditional land rights, and acknowledging community-based land governance structures (Biraro & Lemmen, 2015).
- Collaboration between traditional authorities, customary institutions, and government agencies can help ensure a comprehensive and inclusive land information system as seen in Rwanda (Biraro & Lemmen, 2015; Bizoza & Opio-Omoding, 2021; Schreiber, 2017). This is also

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promoted by the pro-poor recordation tool (PPLRT) that advocates for recognising the existing land rights of the poor, especially those that are informal, customary, or collective. It is based on a set of design principles that emphasize community participation, flexibility, affordability, and scalability (Hendriks et al., 2018).

- Building the capacity of local communities, land administrators, and professionals in land information management is crucial for maintaining accurate and up-to-date data (Schreiber, 2017). Providing training on data collection, record-keeping, and technological tools equips individuals with the skills needed to manage land information effectively (Centre for Public Impact (CPI), 2017). Moreover, supporting educational initiatives in schools and community centres can promote awareness and understanding of land rights and the importance of updated land information among future generations (Schreiber, 2017; Zevenbergen et al., 2016).
- Promoting pro-poor policies and inclusive land governance frameworks is essential for supporting the upkeep of land information (FAO, 2019; Kramer et al., 2021; Land Portal Org, 2018; Tchatchoua-Djomo, 2018). This involves addressing structural inequalities, protecting the rights of marginalized communities, and ensuring their meaningful participation in decision-making processes (FAO, 2006, 2012, 2019).

6. CONCLUSION AND RECOMMENDATIONS.

6.1. Introduction.

This chapter aims at giving a summary of the findings of this study. Section 6.2 presents the conclusion of each research Sub-objective. Section 6.3 presents the general conclusion of the thesis; section 6.4 presents the limitation and future direction of the study and finally, section 6.5 presents the recommendation of the study.

6.2. Conclusions.

6.2.1. Sub-objective 1: Land inheritance practices in the legal and social-cultural laws

In describing the land inheritance practices in the legal and social-cultural land inheritance in Kenya, majority practices intestate land succession. This is because of the believe that the people who write wills must have a lot of wealth to distribute; a group which most of Kenyans assume they do not belong in. Another reason for not writing wills is the traditional notions of land being communal, hence belonged to everyone for stewardship not ownership. This therefore meant no need for wills to give directions how the real property should be passed to the next of kin. On the social-cultural land succession, the Luo community practices patrilineal based on seniority. This process is based majorly on the type of family set-up. The larger the family settings, the slower the process as it takes more time to reach an agreement on how to distribute the real property.

Majority of people had not updated their land information. This might be attributed to the fact that the process of undertaking the legal land succession was found to be at least 9 months to decades. Moreover, there are no standard fees for undertaking the process. The two main organizations (Court of Law and Ministry of Lands and Physical Planning) were found to work independently without coordination on land succession clauses and lastly, these offices were found to be far from the rural citizens hence the need for regular land clinics. The legal land succession in Kenya has a lot of similarities with Uganda, Tanzania, and Rwanda. The social-cultural land succession in Uganda, Tanzania, and Rwanda means an exclusion of one gender depending on the region.

6.2.2. Sub-objective 2: Analysis of the barriers to the formal land succession process.

On analysis of the barriers to formal land succession, the government of Kenya has aligned the social-cultural practices with the legal requirements. This has been done through the recognition of the customary systems by the enactment of the community land Act 2016. The Constitution of Kenya 2010 has also recognised alternative dispute resolution on land administration and management matters. However, there are still gaps. For example, most of the traditional land succession means the exclusion of one gender i.e., matrilineal, or patrilineal. On the other hand, the Constitution promotes equality and equity in land succession practices.

The gaps between social-cultural and legal land succession in a number of selected countries are different depending on the country's historical, political, legal, and traditional systems. The gaps from the selected countries can be summarised as a lack of recognition and protection of the customary systems, lack of proper documentation and record keeping, weak implementation of the legal framework, and weak institutional framework. A comprehensive approach is needed to resolve these gaps. The internal and external factors are intertwined in the formal land succession process. For example, the family might have agreed to undertake the process however the offices and the formal costs might be too far from their reach.

The success factors in the alignment of the social-cultural and legal land succession can be attributed to the legal reforms as seen in Rwanda, women's advocacy by international non-governmental organisations, community/participatory-based approaches and land rights education and campaigns. These factors have helped to reduce land disputes, promote legal certainty, and reduce gender

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inequalities. However, there are still gaps in addressing the deep-rooted social-cultural norms on inheritance and gender in most African countries.

6.2.3. Sub-objective 3: Assessment of innovative and pro-poor approaches to facilitate the process of keeping land information up to date.

The government of the selected countries have aligned the social-cultural land inheritance laws with the legal requirements. This has been done through the recognition of the importance of customary land tenure systems and has implemented measures to recognize and protect customary land rights, promote equitable access to land, and support sustainable land use. This has been done by the enactment of the land policy by most of the selected countries e.g., Rwanda developed passed a land policy in 2004, Ghana in 1999, Malawi in 2002, Kenya in 2009 and Namibia in 1998. However, a proper monitoring framework to evaluate the performance of the policy is required.

The selected countries have come up with different innovative and pro-poor approaches to keep land information up to date. These approaches include participatory mapping using the community, the creation of a land ombudsman office as used in Rwanda, and participatory land-Use Planning, digitization in land registration processes, and open Geoportals for easier access to land information for the citizens.

Kenya can therefore adopt these practices. The adopted best practices involve the use of technology, simplification of land administration processes, collaboration among the organisations involved, community mapping approaches, and capacity development as seen in a number of selected countries for example Rwanda.

6.3. General Conclusion

In general, the research findings suggest that keeping land information up to date requires scholars and implementing agencies to go beyond the technical and organisational facets of the registration system. It means that the relationship between administrative efficiency and enhanced registration and subsequent updating of land information cannot be entirely applied to different tenure contexts. As opposed to this, it is essential to consider external elements resulting from social-cultural practices that affect land ownership and transfers, as well as their impact on administrative processes and the opposite.

Similarly, within the formal sector, addressing non-registration and subsequently, updating land information imposes effective coordination between agencies involved in land registration, such as the courts and land registries. Understanding the various influencing factors across different domains is essential for aligning existing de facto land rights, statutory land rights, and land registration practices. This broader understanding would be particularly valuable in increasing registration and updating land information, especially in regions of the global south, where land succession plays a substantial role in land ownership. As a result, this study adds to the ongoing conversation about the causes of non-updating, particularly in the global south, and offers insightful information for developing and enacting policy, such as the use of novel strategies like fit-for-purpose land administration systems.

6.4. Limitation of the study.

The primary prominence of this study was in Siaya, Kenya. This is a county dominated by the Luo community, and therefore, its findings may not directly echo the circumstances in other counties which are occupied by other ethnic groups in Kenya and beyond. Secondly, the study was carried majorly in rural areas and may not depict the picture in the peri-urban areas. Lastly, this research was qualitatively based. This means that the findings were based on a specific group of people (Luo) and the results may not be generalized and transferred to another group of people with different contexts.

6.5. Recommendations.

The study explored how land succession practices impact on keeping land information up to date. To this, it is important for researchers and professionals in Kenya to explore the potential of using

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innovative technologies, such as crowdsourcing, digital identity, or mobile applications, to facilitate the registration and updating of land rights. There is also a need to engage with various stakeholders, such as landowners, heirs, communities, customary authorities, government officials, civil society organizations, etc., to raise awareness and promote dialogue on the benefits of registering and updating land information and lastly, there is an urgent need to propose legal and institutional reforms that can harmonize and streamline the various laws and procedures relating to land registration and inheritance practices e.g., through bottom-up land law amendments, and ensure that they are consistent with the goals to be achieved.

It is important to note that this research was conducted qualitatively. However, complementing it with a quantitative study could provide statistical insights into the relative significance of key variables that contribute to the updating or non-updating of inherited land like government efforts to the process, importance attached to the process of updating land information by the citizens etc., In this study, the main objective was to establish a ground by exploring the tales and practices surrounding inheritance transfers and subsequent registration and updating of the land information. Therefore, further studies that take a quantitative approach would serve as a valuable addition, as they would enhance our understanding and provide a more comprehensive analysis of the subject matter.

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ANNEX

Annex 1: Work Plan.

Activities	2 0 2 2												2 0 2 3																			
	October				November				December				January				February				March			April			May			June		
PRE-FIELD WORK	[Light yellow background]																															
Literature review	[Orange background]																															
Fieldwork preparation													[Yellow background]																			
INTERNSHIP	[Yellow background]																															
FIELDWORK	[Yellow background]																															
Questionnaires/Focus group discussion																																
Expert interviews																																
Feedback sessions																																
POST-FIELDWORK	[Light yellow background]																															
Data Analysis																																
Results and Discussions																																
Conclusion and Recommendations																																
Thesis writing	[Light green background]																															
Presentation and Defence																																

Annex 2: Research Design Matrix

Research objective	Sub-objective	Research Questions	Data Required	Data Sources	Data collection Techniques	Data Analysis Techniques.	Anticipated Results
1. To describe the land inheritance practices in the legal and social-cultural laws.	a. What are the legal land succession practices that exist in Kenya?	Legal land Succession Practices in Kenya. (Testate/Intestate)	Existing Literature on land succession Conveyancing lawyers, Land officers, and the successors	Interviews	Descriptive statistical analysis	A description of the legal land succession steps and process. A graphical representation of the types of legal land succession in Kenya	
	b. What are the requirements for updating land information in the legal system in Kenya?	Requirements for updating land information in Kenya	Existing Literature on land succession Conveyancing lawyers, Land officials, Landowners	Literature Review Interviews	Content Analysis	A description of the documents required and procedures for legal land succession in Kenya.	
	c. What are the social-cultural land succession practices in Kenya?	Social-cultural land succession practices. (Legal pluralism).	Existing Literature on land succession Land officials, Conveyancing lawyers, Local administration, and the successors	Literature review Interviews	Content Analysis Descriptive Statistical analysis	A description of the steps and procedures for the social-cultural land succession among the Luo. Comparison of Islamic, customary, and Christianity land succession steps and processes among the Luo.	
2. To understand the barriers to the	a. How do each of the socio-cultural laws align with the legal requirements to	Aligning Social-cultural laws to the legal requirements	The match from data collected in 1a, b, and c.	Analysis of results in (1a+b)-1c.	Match analysis	A table showing the legal requirements matched with the social-cultural land succession. -Match in the laws	

Research objective	Sub-objective	Research Questions	Data Required	Data Sources	Data collection Techniques	Data Analysis Techniques.	Anticipated Results
formal land succession process.		support updating the land information in Kenya?					-Match in the practices -Match in the costs. -Match in documents.
		b. What are the gaps between social-cultural and legal land succession laws in other countries?	Gaps between social-cultural and legal land succession.	Literature review Land professionals from the selected countries.	Literature Review Semi-structured interview	Gaps analysis	A clear description of the gaps between the legal requirements and social-cultural land succession. -Gaps in the laws -Gaps in practices -Gaps in costs Gaps in documents.
		c. What are the success factors (evidence-based) after aligning the legal and social-cultural laws in the selected countries?	Enabling factors for the aligning of the legal and social-cultural laws.	Land professionals from the selected countries. Existing literature	Literature review Semi-structured interview	Content analysis	A description of success factors (evidence-based) to align social-cultural laws against the legal requirements in the selected countries.

3. To assess innovative and pro-poor approaches that can help facilitate the process of keeping land	a. How have legal requirements (Govt) tried to align with socio-cultural laws to support updating the	Government interventions in other countries to align the legal requirements to	Existing literature (Books, journals, policy documents). Land professionals from the selected countries.	Literature review Semi-structured interviews	Content Analysis	A description of the different innovative and pro-poor approaches used in different selected countries in enhancing keeping land information up to date.
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Research objective	Sub-	Research Questions	Data Required	Data Sources	Data collection Techniques	Data Analysis Techniques.	Anticipated Results
information up to date.		land information in other countries?	social-cultural land succession.				
	b.	What are the innovative and pro-poor approaches used in other countries to update their land information?	Methods used in other countries to update their land info	Existing literature (Books, journals, policy documents) Land professionals from other countries.	Literature Review Semi-structured interview	Content Analysis	A description of the efforts the government of the selected countries have tried to ensure land information is up to date.
	c.	What are the best practices that can be recommended in Kenya to speed up keeping land information up to date?	Global Practices recommend in Kenya for updating land information.	Existing literature (Books, journals, policy documents). Analysis of the gaps and match.	Literature review	Content analysis	A clear description of the global practices recommended in Kenya.

Annex 3: Operationalization of Variables.

Research objective	Research Questions	Concepts	Constructs	Indicators	Variables	Interview Questions
1. To describe the land inheritance practices in the legal and social-cultural laws.	a) What are the legal land succession practices that exist in Kenya?	Land inheritance practices	Legal/formal land succession	Testate	The proportion of testate land succession	Was there a will for the next of kin?
				Intestate	The proportion of Intestate land succession	Was there a will for the next of kin?
				Registered	The proportion of land registered	When was the land registered? Was the land registered?
	b. What are the requirements for updating land information in the legal system in Kenya?	Requirements for Keeping land information up to date.		a)Documents required.	Documents required for registration of Properties acquired via land inheritance.	Types of documents required for the legal succession process.
b)Procedures for formal registration				The number of steps and cost to be followed under the legal land succession.	Steps and cost to be followed in the legal land succession.	What steps did you follow for the legal land succession? How long did it take to undertake the legal land succession process?

Research objective	Research Questions	Concepts	Constructs	Indicators	Variables	Interview Questions
						<p>What were the requirements for each step?</p> <p>What was the total cost of undertaking land succession?</p> <p>Did you complete all the steps?</p> <p>If no, at which step did you stop? Why?</p>
	c. What are the social-cultural land succession practices in Kenya, East Ugenya ward?	Legal pluralism	a) religious laws	Islamic	The proportion of Islamic land succession	<p>What are the steps followed for land succession in your community?</p> <p>What are the reasons you have not undertaken the legal land succession process?</p> <p>What is the cost of undertaking land succession in your community?</p>
Christianity				The proportion of Christian land succession		
Hindus				The proportion of Buddhist land succession		
b) Social-cultural laws (Customs)			Customary land succession practices.	Customary practices on land succession		

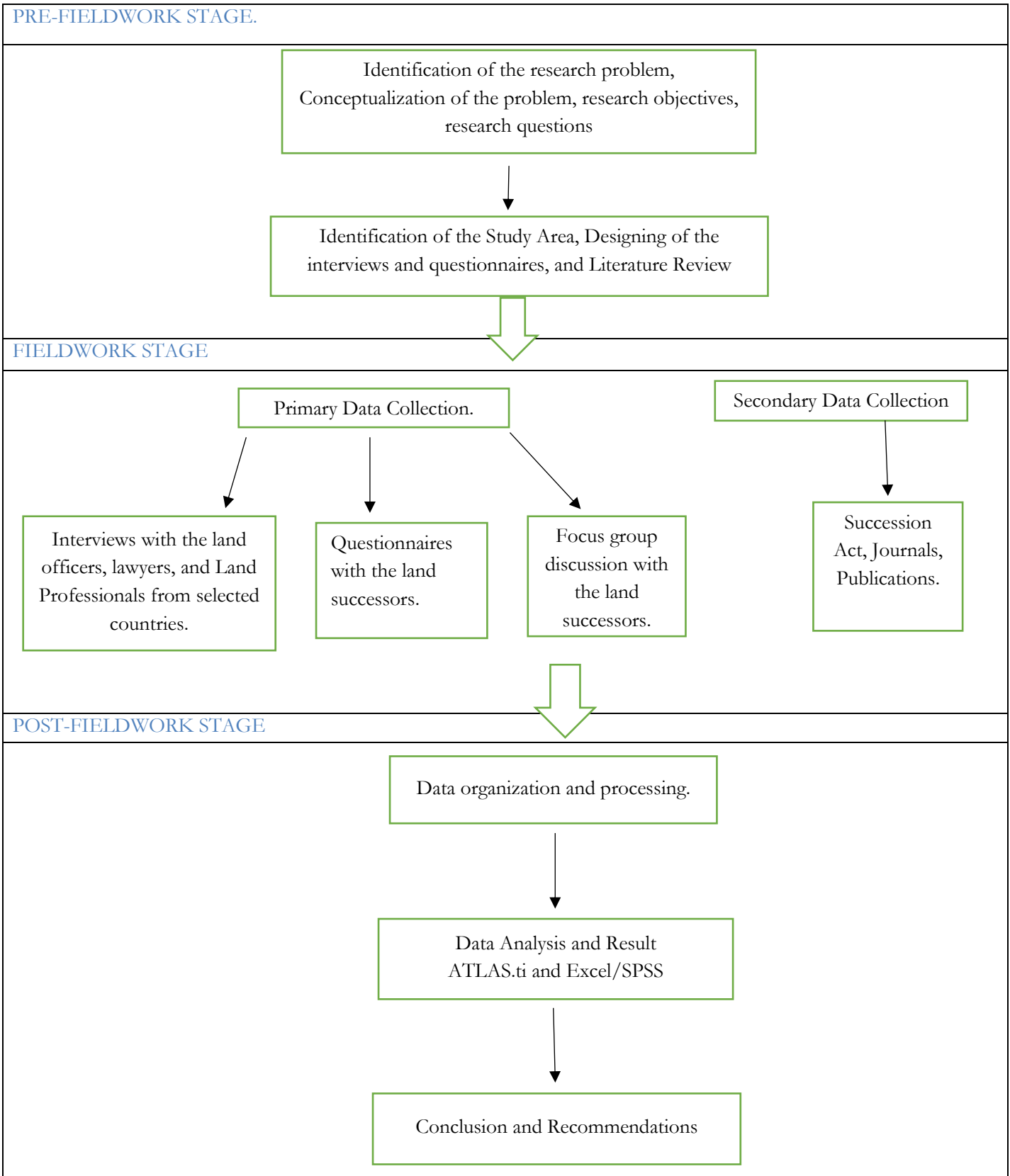
Research objective	Research Questions	Concepts	Constructs	Indicators	Variables	Interview Questions
		Land inheritance practices	Social-cultural land succession	Matrilineal	The proportion of matrilineal land succession	Does the property go to the mother's lineage or the father's lineage
				Patrilineal	The proportion of Patrilineal land succession	
				Partible	The proportion of partible land succession	Is the property divided equally among the next of kin?
				Impartible	The proportion of Ultimogeniture land succession	
					The proportion of Primogeniture land succession	
2. To understand the barriers to the legal land succession process.	a. How does each of the socio-cultural laws align with the legal requirements to support updating the land information in Kenya?	a. Aligning Social-cultural laws to the legal requirements.	i. Social-cultural laws	The different social-cultural laws in Kenya	i) The matches ii) The mismatches iii) The gaps between the legal requirements and the social-cultural laws.	Gaps and match analysis. What are the challenges in updating land information in Kenya?
			ii. Legal Requirements	Requirements for supporting land information		

Research objective	Research Questions	Concepts	Constructs	Indicators	Variables	Interview Questions
	b. What are the gaps between the social-cultural and legal land succession laws in selected countries?	a. Gaps between social-cultural and legal land succession	Differences between de facto and de jure on land succession.	Comparison between legal and social-cultural land succession	A tabulation of the difference between legal land and social-cultural land succession in different countries.	What is the difference between the social-cultural and legal land succession laws in your country?
	c. What are the success factors (evidence-based) after aligning the legal and social-cultural laws in other countries?	Success factors	Enabling factors for the aligning of the legal and social-cultural laws.	List and description of factors required for updating land information in the selected countries	A list and a description of the enabling factors to consider when aligning the social-cultural laws and the legal requirements in the selected countries.	What factors have been considered/included when aligning legal requirements and social-cultural laws in the selected countries?
3. To assess innovative and pro-poor approaches to facilitate the process of keeping land information up to date.	a. How have legal requirements(Gov't) tried to align with socio-cultural laws to support updating the land information in selected countries?	Legal Requirements.	What government has done to align the legal requirements to social-cultural land succession?	Approaches by the government to align social-cultural land succession to the legal requirements.	A description of government efforts on keeping land information up to date.	What the government have done to encourage the process of updating land information in your country?
		Social-cultural laws	What social-cultural laws have been aligned with the legal requirement	Comparison between the social-cultural laws and the legal requirements	A description of the social-cultural practices and processes that have been aligned with the legal requirements to speed up	What Social- cultural practices and processes have been aligned to s enable the process of keeping land

Research objective	Research Questions	Concepts	Constructs	Indicators	Variables	Interview Questions
				for updating land information.	updating land information in the selected country.	information up to date in your country?
	b. What are the innovative and pro-poor approaches used in other countries to update their land information?	Innovative and pro-poor approaches to updating land information	Government efforts	Innovative and pro-poor approaches are used by governments in selected countries for updating land information.	Approaches by governments in other countries to facilitate keeping land information up to date.	What methods have been used by your government to facilitate the land updating process?
Non-governmental organisations			Approaches used by different NGOs in other countries to encourage updating land information.	Descriptions of the methods used by NGOs in the selected countries to encourage keeping land info up to date.	What approaches are used by NGOs in your country to facilitate the land updating process?	
Individuals		What individuals in different countries have done on keeping land information up to date?	A description of the innovative and pro-poor ways to align social-cultural laws into the legal systems for updating land information(individuals).	What ways are used by landowners to facilitate the land updating process?		

Research objective	Research Questions	Concepts	Constructs	Indicators	Variables	Interview Questions
	c. What are the practices outside Kenya that can be recommended in Kenya in updating land information?	Working Practices from abroad recommend in Kenya for updating land information.	Working practices abroad.	Comparison of practices abroad and in Kenya.	Description of working practices, their characteristics, and potentiality for adoption in Kenya to enable keeping land information up to date.	What are the best practices that can be recommended to encourage people to register their land in Kenya?
	d. What are the good practices, methodology, or framework to enable aligning socio-cultural laws and legal requirements for updating land information?	Good Practices	Framework to enable aligning the social-cultural laws to legal requirements.	Aligning the social-cultural laws to the legal requirements for updating land information.	A framework of practices, and processes in updating land information after aligning social and cultural laws and legal requirements.	Based on the analysis of the results.

Annex 4: Research Design Workflow.



Annex 5: Questionnaires and focus group discussion guide for Household data in East Ugenya, Siaya, Kenya.

I am Joseph Rajul, a student at the University of Twente, Faculty of Geoinformation Science and Earth Observation in the Netherlands. I am pursuing an MSc in Geoinformation Science and Earth observation specializing in Geoinformation management for Land Administration. As part of my academic obligation, this study is to explore how land inheritance practices are influencing the process of updating land information. I am glad that you agreed to participate in this study.

This questionnaire is intended solely to collect data to facilitate this study. This questionnaire will be used to explore the impacts of land succession on keeping land information up to date in Kenya. Any personal data will be anonymised according to the GDPR (data protection rules).

Questionnaires Guide for households.

1. What is your gender

Male Female

2. Which sublocations do you live in?

Kathieno A Kathieno B Kathieno C Sihayi Ramunde Anyiko

3. What is your age range?

30-40 40-50 50-60 60-70 70-80 80-90

3a). Do you own a parcel of land?

Yes No

b). If yes, is your land parcel formally registered?

Yes No

4a). Did you acquire your land parcel through land sale or inheritance?

Sale Inheritance

b). If through inheritance, was there a will by the registered owner of the land on the beneficiaries in case of death?

Yes No

c). If there was no will, how was the inheritance decided?

5. If through inheritance, did you acquire the land from the father's lineage or the mother's lineage?

6. If you acquired the land through inheritance, have you updated your land details?

Yes No

7. If yes,

a). What steps did you follow?

b). How was your experience with the full process?

c). What challenges did you encounter during the process of updating land information/details?

d). What can you recommend in reducing the challenges you faced during formal land inheritance?

e). How much did you pay for the entire formal land succession process?

8. If no,

a). Have you started? If yes, where did you leave? Why?

b). If you have not started, what are the reasons you have not updated your land details?

b). What should the government do to encourage you to update your land details?

Focus group discussion guide with the householders.

1. What is the process of land succession in your community?

2. Are you aware of the process of legal land succession? Explain

3. What challenges do people face regarding the land inheritance process?
4. What can be the solutions to these challenges?
5. What do you think the government needs to do to encourage updating land information?

Annex 6: Interview Guide for the conveyancing lawyers in Kenya.

I am Joseph Rajul, a student at the University of Twente, Faculty of Geoinformation Science and Earth Observation in the Netherlands. I am pursuing an MSc in Geoinformation Science and Earth observation specializing in Geoinformation management for Land Administration. As part of my academic obligation, this study explores how land inheritance practices influence the updating of land information. I am glad that you agreed to participate in this study.

This questionnaire is intended solely to collect data to facilitate this study. This questionnaire will be used to explore the impacts of land succession on keeping land information up to date in Kenya. Any personal data will be anonymised according to the GDPR (data protection rules).

1. What is the role of conveyancing lawyers in the formal land succession process in Kenya?
2. Kindly describe the legal land succession procedure in Kenya
3. What is the average time taken to finalize a formalized land succession process?
4. Enumerate the different costs incurred in each step of the legal land succession process.
5. What institutions are involved in the legal land succession process in Kenya?
6. From your own experience, what are the challenges encountered by the citizens in undertaking the land succession process?
7. In your own opinion, what measures would you suggest in dealing with the challenges mentioned above?
8. How do the social-cultural land succession practices impact keeping land information up to date in Kenya?
9. In your opinion, how can social-cultural land succession be aligned with legal land succession practices in Kenya?
10. In your own experience, what has the government done to help streamline the formal land succession processes?
11. From your own experiences, what measures can the government adopt to help citizens to update their land records?