



Women's property inheritance rights in Kosovo



Kosovar for Gender Studies Center

March, 2011

Women's Property Inheritance Rights in Kosovo

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Technical editing, design and printing: Toolbox

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This project was funded through a U.S. Embassy, Pristina grant. The opinions findings, and conclusions or recommendations expressed herein are those of the Author(s) and do not necessarily reflect those of the Department of State.

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ACKNOWLEDGEMENTS

Above all, I would like to express my appreciation and thanks to all the respondents, who were ready to give up their time to participate in our research, by filling out the questionnaires, enabling us to give a more comprehensive analysis exploring the issues involved in this research.

Special thanks are extended to the American Embassy in Prishtina for its financial support.

In addition, I would like to thank staff members of KCGS: Sibel Halimi, heads of research, Driton Parduzi, Luljeta Demolli, as well as the interviewers, whose contribution was extraordinarily important for the realization of this report.

Luljeta Vuniqui

Executive Director of the Kosovar for Gender Studies Center

Project Goal

The main objective of this project was to research and address issues relating to women's property inheritance in Kosovo. Through this research, the Kosovar for Gender Studies Center has attempted to identify the positions, obstructions, challenges and difficulties associated with realizing inheritance rights. Specifically, KCGS has sought to achieve two fundamental objectives in this research:

Objective 1: Analysis of the role of traditional norms and their affect on women's welfare with regard to their inheritance and property rights.

Objective 2: Increasing awareness and knowledge amongst women and public opinion with regard to women's inheritance and property rights.

METHODOLOGY

The Kosovar for Gender Studies Center used information gathered to draft a research methodology, measuring women's attitudes in Kosovo relating to "women's inheritance property rights in Kosovo."

Sample

This research surveyed only women over the age of 18 years. The survey included 1050 women. Most of the research takes place in predominantly Albanian areas, but without leaving out minorities.

Survey Instrument¹

The research was accomplished on the basis of a questionnaire, drafted by the Kosovar for Gender Studies Center (KGSC) and it was divided into two sections. Questions that tried to extract data from women about their attitudes to property inheritance in general, focusing mostly on defining the value system of Kosovar society, constitute women's attitudes to property

¹ Annex 1, Questionnaire on the basis of which the survey was conducted.

inheritance. Whereas the second section of questions concentrated on gathering data about women's trust in the judiciary, with regard to their property rights. The questionnaire was of average length and took about 30 minutes to complete.

The field research

The field research involved 1050 respondents all over the territory of Kosovo during the period November 2010 – January 2011.

The research was done randomly. First, an approximate group was identified in each municipality. Then the number to be surveyed was defined and training about women's inheritance in Kosovo was organized for the interviewers. This was preceded by identifying surveys required in rural and urban areas in a municipality, reflecting the distribution in a municipality and similarly, specifying the exact starting points for the location of surveys.

This method was selected for this research because Kosovo lacks comprehensive research into women's attitudes to their inheritance property rights.

Research with women in Kosovo was accomplished through direct interviews. This method significantly reduced the possibility of error, especially since the questionnaires and interviews were completed by experienced KCGS interviewers.

Summary of key conclusions

- Although there is a legal infrastructure dealing with women's property rights, Kosovo struggles with poor implementation of the Law on Inheritance and the continuation of unwritten laws. Thus, 40.83 per cent of women surveyed, think that inheritance, although regulated by law, is in fact regulated by traditions and customs relating to the allocation of property.
- Whereas in Albanian customary law, women were discriminated against with regard to their inheritance rights, the existing law on inheritance in Kosovo respects gender equality.
- Even though the law in force recognizes full equality in inheritance, judicial practice demonstrates that during reviews of inheritance, especially in cases where the woman is the child of the testator, she often gives up her right to inherit in the court.
- Delays in dealing with inheritance cases, time-consuming judicial procedures, delays in executing and implementing judicial decisions and other procedural problems have led many women in Kosovo to lose the motivation to demand legitimate inheritance rights.
- It is important in inheritance issues to bear in mind the legal presumption of the co-ownership by two spouses of property created during their marriage. For this, it is necessary for women to insist in registering property created during the marriage in the name of both spouses, as in practice it often occurs that it is registered only in the husband's name.
- Due to the small number of women on the job market, the research shows that also the number of them able to contribute to the family budget is smaller than the number of men, and so, 42.36 per cent more men than women contribute to the family budget.
- Another important indicator of women's exclusion from family decision-making processes is property registration. Thus, 41.5 per cent of those surveyed stated that their property is registered in their husband's name. 19.87 per cent of single girls said that their property is registered in their father's name, while 19.7 per cent of married women said that their property is registered in the name of their husband's father.

- Despite changing perceptions about wealth and property, land continues to be the sensitive point in this respect. For this reason, 54.9 per cent of women consider land to be inheritance. 17.5 per cent of women think that everything is included in the category of property, whereas the third option which is the house only, is little different from the category of "all".
- The continuing unfavorable position of women in Kosovar society is a factor contributing to the low number of women inheriting property, according to respondents. About 43.6 per cent stated that this was due to the denial of women's rights, while 29.2 per cent of women think that there is a fear of property being passed to another family.
- To the question, "who should inherit their parents' property", 75.50 per cent of those surveyed agreed that parents' property should be inherited by both genders without distinction. However, in the option by which sons should inherit more than daughters, 9.43 per cent expressed the desire that sons inherit property. According to the survey, 21.4 per cent of women think that their sons should inherit property, while 0.90 per cent think that such a right belongs to daughters.
- When choosing between material and spiritual values, women often chose spiritual values. For this reason, 29.96 per cent said they wanted to guarantee their ability to visit their family. Meanwhile, 19.65 per cent of women surveyed were convinced that women in Kosovo prefer to give their inheritance to their brothers or parents because of the traditional system of organizing family relations, whereas 7.21 per cent say that support is given to male children.
- Women in Kosovo are aware of the consequences they may face if they demand the realization of their property inheritance rights. 31.03 per cent of women in such cases fear that they will be ignored and judged by their relatives and family. 30.35 per cent of women think that realizing this right could be obstructed by other members of the family, such as brothers and their relatives, whereas 10.91 per cent think this issue will be passed over in silence.
- However, women's main concern with regard to inheritance and the courts and legislation, is that they are not aware of official statistics about the effectiveness of the judiciary in reviewing women's property inheritance

cases. According to them, if women were more informed about cases concluded successfully in women's favor, the number of women would increase, who prevented from realizing their rights by custom, would be willing to seek their rights through civil law. Thus, women strongly believe that judicial decisions in women's favor should be transparent and promoted by the courts.

Recommendations

- The Ministry of Justice, Agency for Gender Equality and other institutional mechanisms for gender equality and human rights, should monitor the implementation of inheritance law.
- NGOs, in cooperation with institutional mechanisms for achieving gender equality, should initiate awareness and information campaigns about women's property inheritance rights.
- The Agency for Gender Equality and women's NGOs should organize training sessions for judges, in order to increase their sensitivity toward cases relating to gender issues and property inheritance.
- The Ministry of Justice should support professional organizations in developing studies and research about the current level of women's capacities to realize their inheritance rights.
- The Kosovo Government should develop educational programs which include women in rural areas in a special way, so that they can realize their economic potential.
- The Ministry of Economy and Finance, in cooperation with Kosovo banks, should make it possible for women to obtain affordable credit and to start businesses, by helping them with affirmative economic policies, in various forms of cooperative credit and micro-credit with low interest.
- The Agency for Gender Equality and institutional mechanisms for achieving gender equality and human rights, should draft and implement a program and long-term strategy, which will influence the changing of prejudicial stereotypes of behavior for men and women in society.
- Institutional mechanisms for achieving gender equality and non-governmental organizations should monitor the implementation of the laws and strategies relating to the protection of human rights and freedoms of women and girls.
- The Kosovo Government should guarantee the participation of women in the process of creating and realizing government policies.

- The Kosovo Government should continue to build capacities in order to make fully functional institutional mechanisms for achieving gender equality in Kosovo.
- There should be coordination between the Kosovo Government, NGOs dealing with women's rights and the Agencies of the United Nations, in order to inform Kosovar women about legislation regarding their rights.

Introduction

Women's rights remain one of the key challenges for the development of Kosovo's society, especially their right to inherit property and participate equally in the economy. Kosovo's laws guarantee equal rights for men and women in Kosovo, but the influence of culture, tradition, economic conditions and the level of education has restricted achieving equality prescribed by the law.

Although equal before the law, due to traditional mentality, many women in Kosovo still do not inherit property. There are many cases where they even voluntarily give up their familial portion to another member of their family.

Access to property rights and property inheritance are two factors often used to measure the level of equality for women in a society. In this context, the following analysis will provide sufficient data to support the hypothesis that women in Kosovo continue to bear the burden of culture and tradition, evident even in their personal attitudes, according to which men are those who are responsible for property.

It is often said in Kosovo that women are "guilty" for their situation. However, bearing in mind that the concept of "gender" is socially and culturally determined, this implies that men and women's attitudes to their roles are constructed in the same way. Therefore, it should not be surprising that women themselves do not want to inherit property, even if guaranteed by law and international gender equality conventions.

The main barriers identified to changing this cultural construct are:

- Poor implementation of the law;
- Lack of awareness about existing laws and insufficient understanding about options for legal compensation and conflict resolution;
- Prevalence of traditional attitudes and practices, many of which are directly contrary to legal statutes and fundamental civil rights.

Thus, "in many Albanian families across Kosovo (especially those who are poor or from rural zones), women do not inherit property when their

fathers or husbands die. In many cases, in the absence of a brother or son, the property is given to the man closest to the deceased"².

2 Tawil, Edward "Property Rights in Kosovo: A difficult inheritance of a Society in Transition", February 2009. p.22

Context

Despite some progress, women in Kosovo continue to be unequal in many spheres of life, deriving particularly from the failure to realize the right to property inheritance. Therefore, "Women comprise the poorest part of our society. Poverty in Kosovo is above 40 per cent, while within this figure, 70 per cent of women are unemployed, which hinders women's visible participation in public life"³.

There are many indicators which reflect the close connection between property rights and women's social roles in Kosovo. Not allocating inherited property to women, unequal education in relation to men and significant levels of illiteracy are part of the same phenomenon, reflecting the typical traditional mentality of Kosovar society.

Thus, "14 per cent of rural women, compared to 4 per cent of men, are illiterate"⁴. Whereas about "12.5 per cent admit to be functionally illiterate."⁵

Furthermore, an additional indicator of the link between women's lives and property inheritance is insufficient representation of ownership of immoveable property and business enterprises, as only 8 per cent of immoveable property and 6 per cent of enterprises are owned by women⁶.

The economic sector is one of the spheres in which women are unsatisfactorily represented. This is indicated by their participation in the job market, which is one of the lowest in Europe, with only 35 per cent of women actively participating⁷.

"As a result of this practice, many Albanian women in Kosovo are not able to have sufficient collateral to get bank credit. This means they are deprived of the possibility of acting independently from men in the economy. This is precisely because they have not inherited property like the opposite sex. Actually, some women do try to exercise their property inheritance rights according to the law, but the weight of the family and tradition intervenes effectively to block any benefit they might have had from doing this"⁸.

3 Krasniqi, Luljeta – Radio Free Europe "The (in) visible role of women in Kosovo". Interview with Luljeta Vuniqi.

4 UNICEF, Elena Galliano, Elena Volpi, and PRISM; Early childhood education and literacy courts for women. Final report, midterm evaluation, p.5, 2004

5 MASHT, UNICEF and ESK 'Review of gender issues in Kosovo', 2002, p.7

6 Ibid.

7 Department for International Development. Study of Exclusion in the Western Balkans. 28.07.06.

8 Tawil, Edward "Property Rights in Kosovo: A difficult inheritance of a Society in Transition", February

In this context, women are excluded from decision-making about the allocation of property in Kosovar families, and the division of property usually occurs without her voice being heard.

"In large measure, the practice of males allocating property has, is and probably will continue to function for some time".

There are two categories of allocation with the participation or mediation of men:

- a) Formal participation of men
- b) Participation of men to resolve disputes.

This form of allocation occurs more to respect tradition⁹, because the parties inheriting property have reached a prior agreement. "So, in these cases, the participants are mostly relatives or men with authority in the community. The act of allocating property between brothers has a solemn character. According to recent trends, minutes are also kept, which are then signed by all participants.

"Usually, sisters voluntarily give up their property inheritance"¹⁰. Building a commercial building or residence requires a construction permit, yet property rights are not defined for them due to customary allocation, although not according to the law in force, and so in these circumstances, women lose their right to demand or initiate something in their name.

In the worst case, if one of the inheritors has died, this can create big administrative problems in identifying ownership.

Thus, traditional methods of organizing property allocation continue to be a factor excluding women from decision-making in the family and at the same time legitimating and keeping alive the institution of the extended family.

2009. Page .22.

9 Morina, Sevdai "Inheritance Rights – Property Inheritance based on tradition".

10 Ibid

Influence of unwritten laws on realizing women's property inheritance rights

Unwritten laws developed to give people security and to ensure just allocation. This method of maintaining the social order became part of a system of unwritten laws which strongly shaped vital issues for both genders. In the context of women's inheritance rights, besides the existence of legal infrastructure, Kosovo faces poor implementation of inheritance laws and the continuing existence of unwritten laws. Thus, 40.61 of women surveyed believe that inheritance, even though regulated by law, is actually regulated by tradition. Nevertheless, 36.03 per cent of women surveyed, believe in the law.¹¹

Unwritten laws are clear in orienting the genders toward their social roles. One of the sayings illustrating the difference between the definitions of social roles by gender is, "The man has his blood and the woman her family". Gender identity has been created and sculpted well by these unwritten laws, which became part of the mentality.

Today, when there are constitutional laws, unwritten laws remain in force particularly in regulating family relations. Defining the position of family members, various ceremonies (weddings and rituals), allocation of inheritance etc, all continue to be done in an archaic manner, resistant to contemporary development.

In Kosovar society, the Code of Lekë Dukagjini also continues to be an indivisible part of orienting social and cultural values, especially in some regions of Kosovo. Therefore, "Unwritten laws emphasize that the man is in charge of the woman, and can punish her for disobedience or bad behavior."¹² Keeping order in the family is up to the man, "A sort of coordinating authority is necessary when so many workers live under one roof and deal with different duties". Thus the unwritten law requires that each family submits to a patriarchal system,¹³ in which all are governed by the head of the household."¹⁴

11 7.21 per cent of women did not agree with the view that "Even though inheritance is regulated by law, most cases are actually regulated in practice according to tradition." 5.68 per cent did not agree at all, 5.46 stated that "they neither agree nor disagree" and 4.15 of women stated that they "didn't know".

12 Margaret Hasluck "The Kanun" (The Unwritten Albanian Law), part I.

13 Patriarchalism is a political structure that affirms masculine values at the expense of feminine values (feminist encyclopedia).

14 Hasluck, Margaret "The Kanun" (The Unwritten Albanian Law), part I.

In unwritten laws, the female subject is also wrapped in the cloak of the morality of the mentality of that time. The overwhelming part of unwritten laws relating to relations between men and women propose a traditional approach to organizing gender relations according to strict gender stratification. Like for example, "The man is the head, whereas the woman is the neck"¹⁵. In this context, women are usually attributed words and men deeds. This is best described with the popular saying, "Words are womanly, deeds manly."¹⁶

The description of the social role of the man in today's literature is also outside the home. The opposite is dedicated to the woman, who is usually associated with the internal sphere of the home.

"The soul of the house is as the hard-working woman"

Popular saying

Many students of unwritten laws use traditional contours to describe the role of women. According to them they have "A progressive message demonstrating the value and merit the woman has for the home and family"¹⁷. Immediately after this, follows a saying that denies the equality between the man and woman in the family.

*"Damned is that house where the hen crows and the rooster is silent"*¹⁸

Popular saying

The stereotypical portrait of gender is mostly present in the description of social roles inside the family. Boys are also given more authority than girls in the roles ascribed to them by unwritten laws.

"When the Albanian gives his word, he slaughters his son"

Popular saying

According to the sociologist Talcott Parsons "The roles of members are divided according to gender: men have professions while women have the "pseudo-profession" of the housewife. Housework is seen as a pseudo-

15 Wise Albanian Sayings

16 Wise Popular Sayings

17 "Albanian and Neo - Latin Proverbs", Ramadan H. Ramadani, p. 92 chapter "Woman"

18 F. Bardhi "Dictionary" page. 63

profession because it is not recruited through the job market. The status of the married woman originates from that of her husband: "the most fundamental basis of the status of the family is the professional status of the man or father"¹⁹.

Consequently, the attitudes of men and women about property inheritance rights are an extension of the definition of the role of women and men in such societies like Kosovo's, by which decision-making and inheritance are for the men and sons of the family. At this stage of development of Kosovar society, the empirical data shows that 30.13 per cent of women disagree that they should only have the right to inherit if they marry. 19.46 per cent of women surveyed strongly disagreed²⁰. In the majority of unwritten laws analyzed, it can be observed exactly how the roles have been divided according to traditional dictates.

Gender authority portrayed in the analyzed unwritten laws presents a female authority quite often, and presents the male authority more rarely and more strongly.

This authority takes on two forms; an authority which is strong, brave and dominant, through which the male is presented; whereas the female is defined as soft, careful, sensitive, stupid and naive. Hence the proverb,

"He who doesn't work like a man, sits and cries like a woman", which illustrates the traditional symbol, by which tears are not seen as a personification of pain or nobility, but of weakness, and thus women are those that cry whereas "the man is born once, and dies once"²¹. This phenomenon in sociology is known as "sexual characterization," on which the theory of Sandra Bem on gender schema is based, which describes the roles and negative significance deriving from sexual characterization. "Sexual characterization comes partially from the assimilation of concepts within gender schema.

The social role is a norm which defines how a person should behave in specific moments and environments, thus unwritten laws were analyzed in order to show how the superior and inferior social role is internalized and orients an individual's future behavior, while education and children's

19 Scot, John, "Status, Society and Power", chapter on "Stratification and Power."
 20 Over half of women surveyed (59.61) reject the view that women's property rights are realized in the family of her spouse, so she has no right to inherit" 23.8 per cent of women disagreed, while 9.61 per cent of respondents did not agree or disagree, and 5.24 per cent 'didn't know' and 1.75 refused to answer.
 21 Bem, Sandra "Women's Intellectual Contributions to the Study of Mind and Society".

relations to the school system help in forming gender identity and perception of gender roles.

A man who is a man, can't be like a woman?!

In this context, it is clear that despite the existence of laws in force, the role of unwritten laws strongly affects the defining of social roles for men and women in Kosovo. This mentality also shapes the method of allocating property in a traditional manner which is not favorable to women in Kosovo.

Inheritance Law in Kosovo and regulation of women's rights to enjoy this right

The legal institution of inheritance is one of the oldest in the world. In Kosovo and Albanian areas in the Balkans, it is also characteristic because of the ethnic and religious multiculturalism in these lands.

In Kosovo, some customary and moral regulations have functioned for years, which bore little relation to legal forms of inheritance. These were mostly backward customs, which put women in an unenviable position, and especially Albanian women. Serb women and Albanian catholic women were in a slightly better position.

According to Albanian customary law, the woman was discriminated against with regard to the right to inheritance. The Code of Lekë Dukagjini states that: "In the event of the inheritor being female, then a man must be sought up to the 12th remove so that this property is not left to a woman".

However, such an action is not recognized by Civil Law. The laws which regulate inheritance issues differ from state to state. In the past, these relations were regulated by laws on marital and familial relations. This law regulated equally inheritance rights in Kosovo. However, this equality never existed in practice for the above mentioned historic reasons.

However, today there is a special law for inheritance in Kosovo and in the legal aspect, it is very progressive. In terms of legal expressions, it is advanced, because in Article 1. 4. Of the law, names in the masculine can also be feminine and vice versa without discrimination. In addition, equality

in inheritance is codified in Article 3.1. "All physical persons under the same conditions are equal in inheritance".

In the theoretical aspect, LK regulates without discrimination the question of the right to inheritance by women. Regardless of the social position of the woman, with this law she is equal to her husband.

With this law, the women is regulated as an heir in the first order of succession, when she is a wife or has had extra-marital relations with a testator for ten years and has had a child within five (5) years.

She is in the second order of succession when she is the mother of the testator. She is in the third order of succession when she is the sister of the testator.

There are other cases when the testator has no first, second or third order of succession relatives and onwards, and if the closest relative is a woman (grandchild, great-grandchild etc) she can inherit from that testator.

In practice, the most problems occur when the female legal heir is in the second order of succession. If she is the wife of the testator, but the marriage produced no children, then the wife's inheritance is contested by other inheritors. But, this contestation has no legal basis, being supported in traditions and cultural customs.

In addition, practical problems of legal inheritance occur when the woman is the sister of the testator. This problem also has no legal basis, but for the above mentioned cultural reasons, there is no equality.

In legal practice, there are many cases in the analysis of inheritance, especially when women have the status of the child of a testator that she or they give up their right to inheritance through a declaration in court. It is very rare during a court procedure for a sister to declare that the property belongs to her. Thus we have here an informal discrimination, because the normative system in Kosovar society, as well as restricting her right to inherit, denies her the right of deciding to whom to give her property. Under silent pressure, she is obliged to give up her property inheritance so that it goes to a male, or to declare to the court that she is granting it to her brothers.

Another case, which is also regulated by this law, but creates problems in

judicial practice, is when the inheritor is in the second order of succession, thus when the testator was the woman's husband, but the marriage produced no children. In this event, the parents of the testator present themselves. According to the law, the property should be divided between his wife and parents equally. In most cases, the wife rarely realizes this right. This occurs when the issue of inheritance is for example a house and the wife and parents have lived together in that home. But in the same case, if for example the parents died before the testator, then come the sisters and brothers, and the property must be divided 50:50 between the wife and the brothers and sisters.

In the legal aspect, LIK has clearly and well regulated cases when the property which is being inherited has been jointly created. This has to do with marriage and the shared wealth created in a marriage between partners. In this case, in practice there are smaller problems than those mentioned.

In this context, LIK has defined and given real rights to women with regard to inheritance. The legal basis exists and is satisfactory. However, in our society, this law is not implemented. Many final decisions issued by the courts are not enforced or executed. Failure to enforce and execute decisions makes these cases be revised or subject to a time limit.

Thus the lack of a chain mechanism to execute or oversee the law has made many women in Kosovo lose the motivation to seek their legitimate inheritance rights.

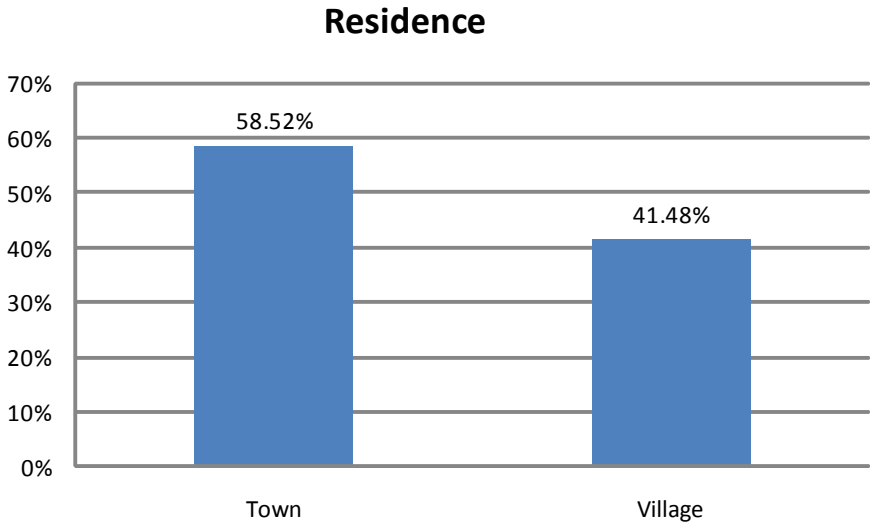
I. Results of field research

Part One

Including women and girls according to residential typology (town – village)

The formation of attitudes according to residential typology according to different sociological and gender analyses plays an important role in revealing a universal phenomenon. In the context of analyzing the question of property inheritance from the gender perspective, respectively identifying the attitudes of women and girls by residence, is important in defining trends of change in the value system in Kosovar society, with regard to property and the female gender. Because of big population movements inside the territory of Kosovo from the village to the town, a higher percentage of women and girls from towns than from villages were included. In most cases, in studies of women, the primary indicator of analysis refers to the town as the reference point, because the influence of social factors makes expectations of change from traditional practices in the town greater. Thus, “the massive urban migration of Albanians from rural zones caused a great shift in the patriarchal structure of families, in which roles are defined with strict customary rules and traditions”²². But although town life, often in small overcrowded apartments has contributed to breaking down the traditional family structure in Kosovo, still we cannot talk of change at the roots between the town and village, when dealing with women’s property inheritance in the Albanian, Serb, Roma, Ashkali and Egyptian communities (for more regarding the division of the sample by residence see graph 1).

22 Tawil, Edward “Property Rights in Kosovo: A difficult inheritance of a Society in Transition”, February 2009. p. 22



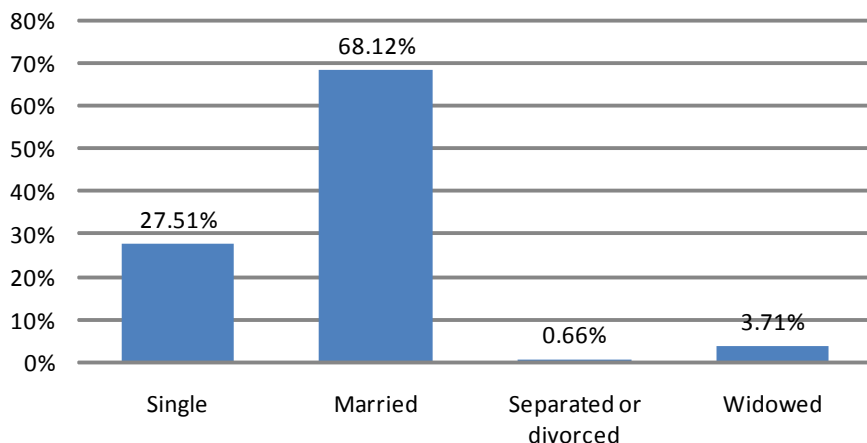
Graph 1: Inclusion of surveyed women by residence

Social status of surveyed women

What is the experience and what are the opinions of married, single and widowed women about property inheritance?

This research includes 68.12 per cent married women, 27.51 per cent single women and 3.71 widows. The inclusion of more married than single and widowed women is because women with 'married' social status may have direct experience of trying to realize their property rights, or even the allocation of their property to sons and daughters. However, the key difference between attitudes of married women is that they continue to be traditional regarding the allocation of their property. Whereas single women have more contemporary attitudes about the regulation of family relations, this research shows that despite differences in age and social status, these differences are minimal from what might be expected.

Marital status



Graph 2: Inclusion of women according to status

Who provides the family income?

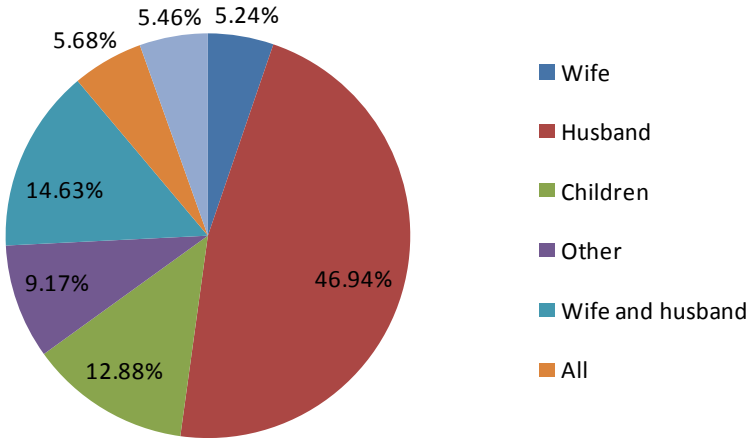
Considering the economic dimension of addressing the issue of income provision for the Kosovar family budget from a gender perspective, the following can be concluded: “Only 13 per cent of women and 41 per cent of men live mainly from the personal income from their work. Economic dependence is twice more prevalent amongst women than men: 77 per cent of women and 33 per cent of men live from income that someone else has earned”²³.

Thus, because of the small number of women included in the job market, according to the research, the number of them contributing materially to the family budget is also smaller in comparison with men, thus 42.36 per cent of men contribute more than women to the family budget. Immediately after men, children are ranked as the next contributor to the family budget at 12.88 per cent compared with 7.86 of women, and so children contribute more. The poverty of women in Kosovo continues therefore to be at a high

23 Kosovar Centre for Gender Studies “Monitoring Equal Opportunities for Women and Men in Kosovo,” 2006.

level compared to men and young people. However, 14.63 per cent chose the option “wife and husband” (for more see the graph).

Whoprovide the incom for your family?



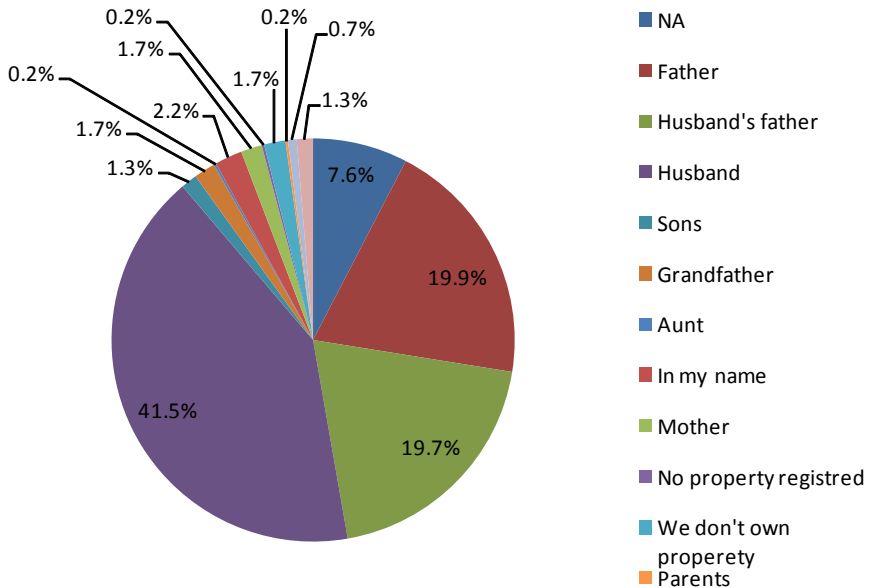
Graph 3

Another important indicator of women's exclusion from the decision-making process in the family is also the registration of property. 41.5 per cent of those surveyed said that their property is registered in their husband's names. 19.87 per cent of single girls said their property was registered in their father's name, whereas 19.7 per cent of married women said their property was registered in the name of their husband's father.

As can be seen from the graph, the number of women with property registered in their name does not go above one percent, while 7.64 per cent did not answer the question, and 1.31 per cent said that their property is registered in their brother's names.

It is important in property issues to consider the legal presumption of co-ownership of both spouses for property gained during the marriage. For this reason, it is necessary for women to insist on registering property gained during the marriage in the name of both spouses, since in practice, it often occurs that they be registered only in the husband's name. In the case of legal inheritance, their share is threatened if the legal presumption is not borne in mind.

Property is registered in the name of:

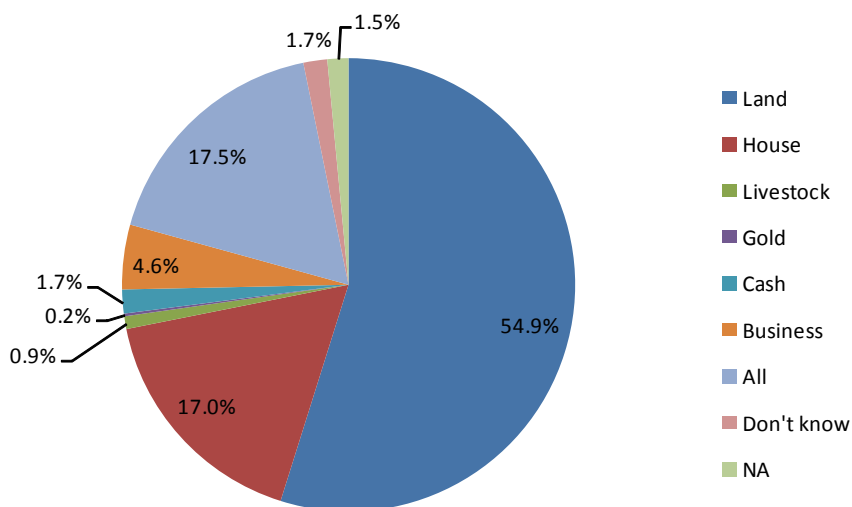


Graph 4

Women's formal control of land has deep roots in Kosovar culture. The issue of land distribution is determined by status within the family. Thus the process of land allocation is determined by social regulations excluding women's participation. So today, when the position of women appears to be a little more advanced, land inheritance continues to remain one of the rights discriminated against and denied.

Despite changes in perception about wealth and property, land continues to be the sensitive point. Because of this, 54.9 per cent of women consider land to be inheritance. 17.5 per cent of women think that all of this is the category of wealth, while the house as the third option does not differ from the category of "all".

What does inheritance mean?



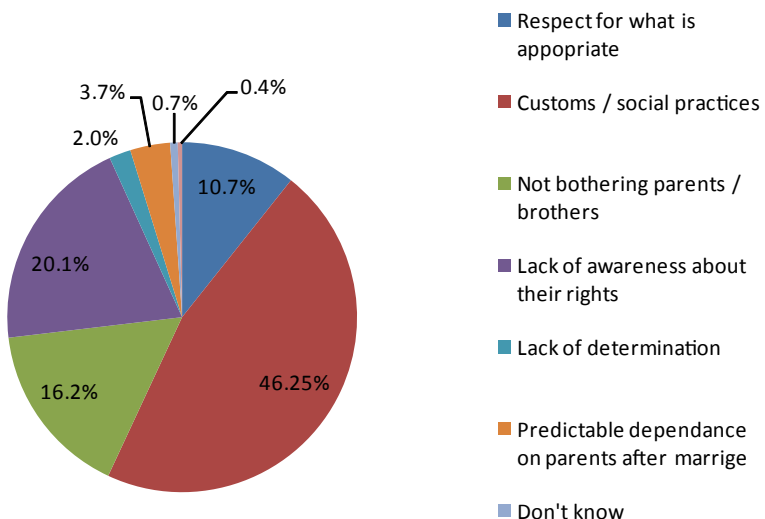
Graph 5

II. Women's attitudes about property inheritance Part Two

Extremely patriarchal societies deny the female subject as a family heir because "The boy is for the name, the girl for the heart". So the boy is considered as the continuation of the family, and guardian of the name, and thus a popular saying considers that "a father, who leaves a good son, does not die"²⁴.

However, gender studies show that this mentality plays an important role in educating the generations. Small girls grow up with the repeated idea that "the girl is destined for other's home" and the importance given to her schooling is minimal in comparison to the boy. Boys are raised mostly with the idea of their role as head of the family, as illustrated by the saying that, "The man is for his wife, as a roof is for a house"²⁵.

Why do you think women don't demand their right to inherit



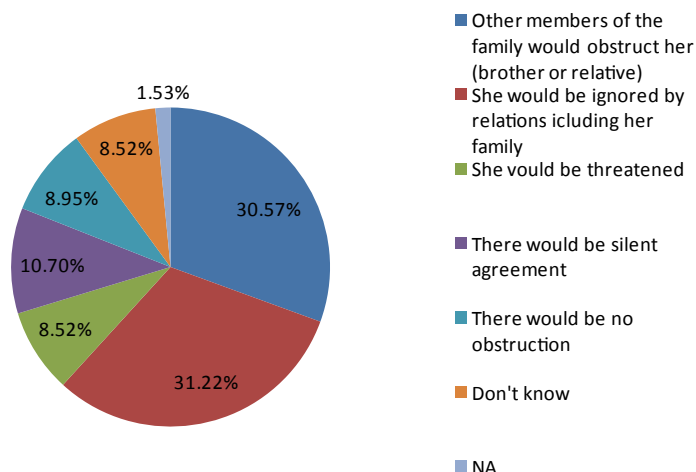
Graph 6

²⁴ Ramabaja, Rushit: "Sunday" p.25 from the collection of proverbs of Ali R. Berisha and Luz Pëmokaj
²⁵ "Aphorisms: Albanian authors. Popular sayings"

The power of tradition and customs is illustrated by this graph which explains the reasons why women give up their right to inherit property. Due to the strong influence of tradition and custom in Kosovo, women give up their right to inherit property. Thus 46.25 per cent think that such circumstances make it impossible to seek their inheritance, which is guaranteed by law. Such an approach can be considered a lack of knowledge or awareness of inheritance rights. Indeed, about 20.1 per cent of women accept that they lack awareness and knowledge about their rights, 16.2 per cent give up their inheritance rights because they do not want their request to damage family relations, believing such a request to be unusual.

In answer to the question, what would be the response if women were to seek their share of the inheritance, 31.22 per cent of them stated that "close relatives and family would ignore me". 30.57 per cent said that "the other part of the family would obstruct me (brothers or relatives)". With this question, the research resulted in a high percentage who thought relations would obstruct them from realizing this right (for more see Graph 7).

What would (could) be the reaction if women would demand their share of the inheritance



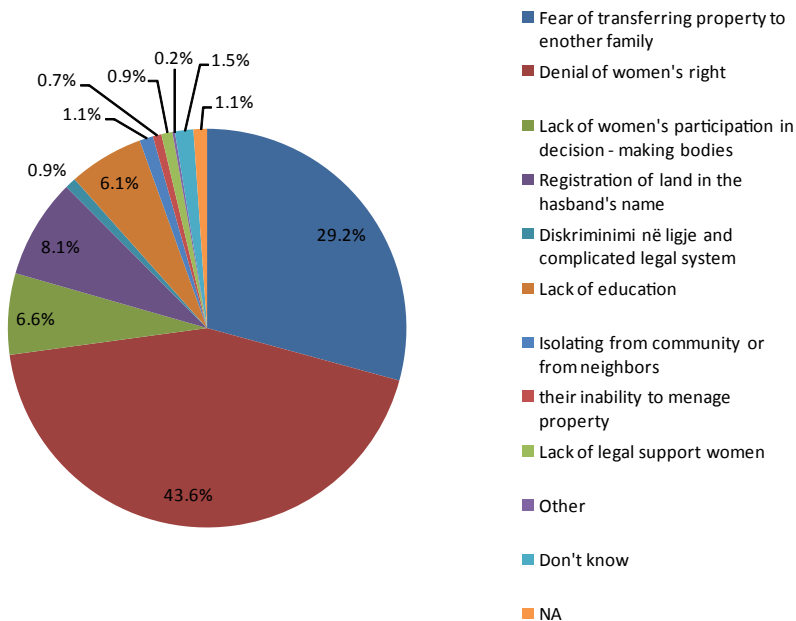
Graph 7

A series of social barriers relating to the position of women in Kosovo are related to their inheritance right. These barriers occur because of a patriarchal Kosovar family mentality, by which the household wealth should remain in the hands of sons, since “the wife belongs to the husband’s door”. Thus, factors affecting the reduction of the number of women inheriting property, according to respondents, are the continuing unfavorable position of women in Kosovar society. About 43.67 per cent of them stated that this is related to the denial of women’s rights, while 29.26 per cent of women think there is a fear of the loss of wealth to another family, since in Kosovo, patrilocal marriages are a common form of existence for couples.

Women think that the fact that property is not registered in their names, indirectly affects their exclusion from its allocation. 6.55 per cent of women think that there is a serious absence of women from decision-making, not just in the family, but in other relevant institutions, where they can play a role in changing mentalities with regard to allocating property.

Women are aware that there is a serious lack of education and that this fact has a great affect on them not having elementary knowledge about their inheritance rights, which puts them in an unequal position in relation to men when it comes to the allocation of property²⁶.

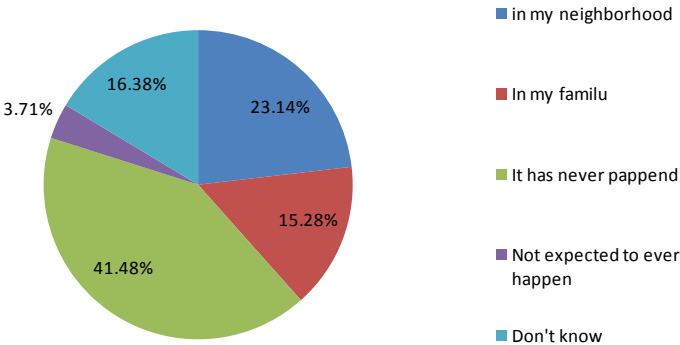
Factors affecting the reduction of the number of women inheriting property



Graph 8

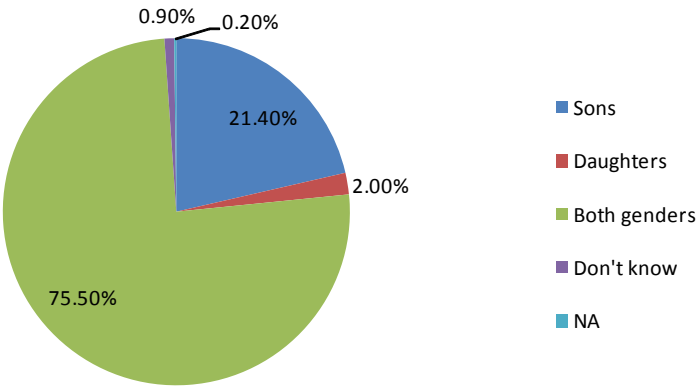
In answer to the question whether “has a daughter inherited in your circle of acquaintances”, 41.48 per cent of women stated that this has never occurred, while 23.14 per cent stated that such cases have occurred in the neighborhood. 16.38 stated that they “didn’t know”, while 15.28 per cent of those who answered, said that this had occurred in their family.

26 6.11 per cent of women stated that education was one of the factors affecting the low number of women inheriting property, while 1.09 per cent of women circled the option that women had no opportunity to manage the inheritance and 1 per cent did not know why such a situation dominates Kosovar society.



Graph 9

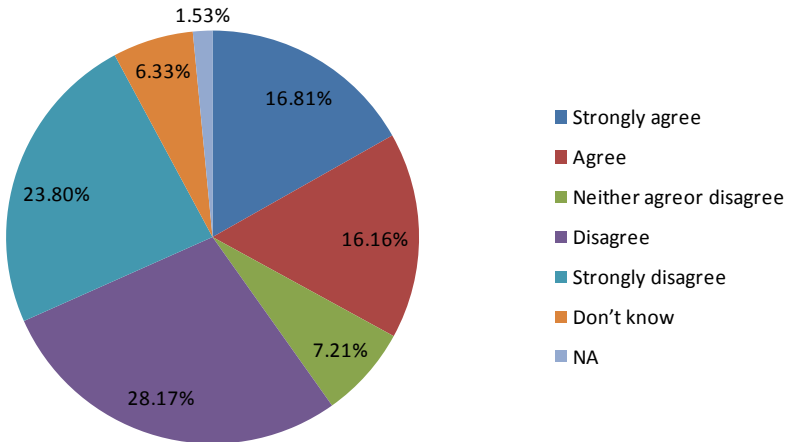
Who should inherit parents' property?



Graph 10

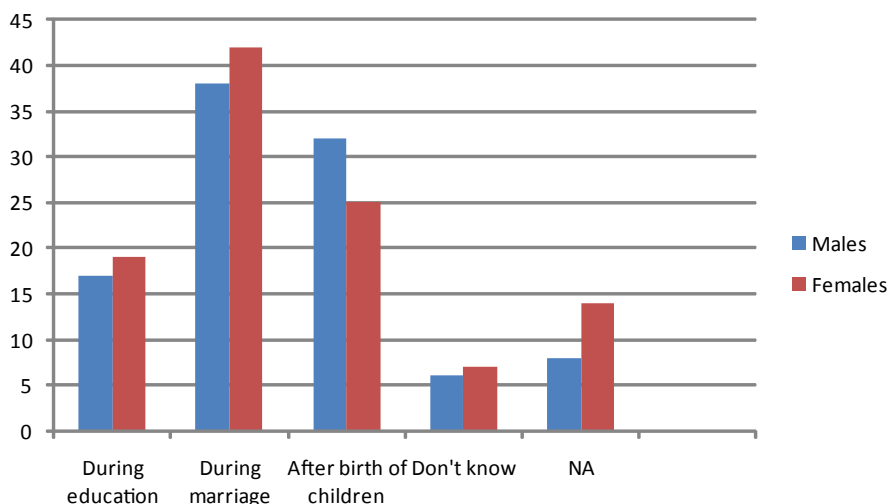
In answer to the question, "Who should inherit the property of parents", 75.50 per cent of those surveyed agreed that parent's property should be inherited by the two genders without distinction. But 9.43 per cent expressed the desire that boys should inherit property, in the option in which boys should inherit more than girls. According to the survey, 21.4 per cent of women think that boys should be property inheritors, while 0.90 per cent thinks that girls should have this right.

Even if the law guarantees the right to inherit, I would still decide to give my property to the sons of the family



Graph 11

In contrast with Graph (10) above, in which respondents were ready for property to be inherited by both genders (75.50 %), 16.81 per cent of respondents think that if inheritance rights are defined by law, property should still be left to men. If we join the options "agree" (16.16), and "strongly agree" (16.81) this makes that 32.97 per cent, compared to the 28.17 per cent who "disagree" and 23.8 per cent who "strongly disagree" which as a total rejection of this opinion equals 51.97 per cent, plus 7.21 per cent neither agree or disagree and 6.33 who don't know.

**Graph 12**

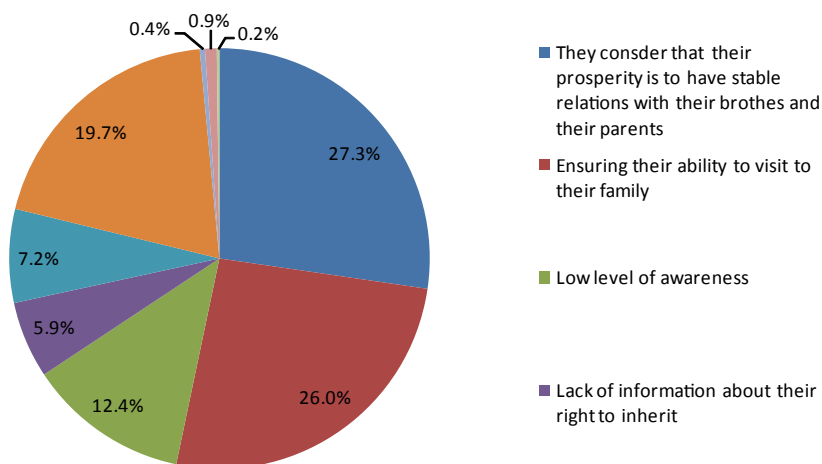
The investment of family wealth in children and later the allocation of this property is one of the most important supports given to daughters and sons. A difference of opinion is observed as to the time when property should be invested and divided between the two genders. According to Graph 12 it is thought that for young people to marry, property must be divided. The women surveyed said that at this time, women need more property than men.

Analyzed from the gender perspective, men have more need for property when they create their family in comparison with women. Whereas women are considered the custodian of children, men are meant to secure the income to create familial well-being.

However, according to traditional social practices, women most of all give up their property inheritance, since they are considered to be the heirs of their husbands.

With regard to schooling, according to the women surveyed, 19.25 per cent think that the investment of inherited family property should go to females, whereas 17.33 per cent think it should go to males. Although a low percentage, in comparison with other categories, there is a small change in approach to the education of girls and boys.

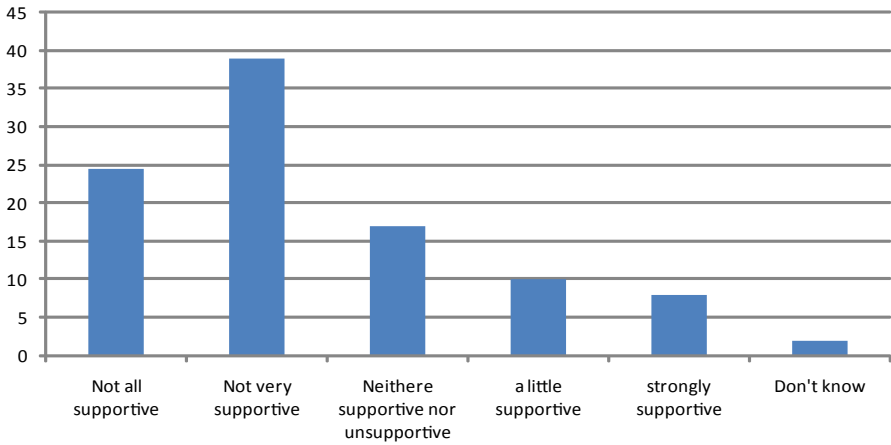
Why do women in Kosovo prefer to leave their inheritance to



Graph 13

Women in Kosovo give up their inheritance rights because of the strong influence of tradition and customs which predefine the roles of existence of “men” and “women”. Women themselves do not make much effort or take the initiative to change this mentality of the social structure because of the above mentioned factors. They “consider that their wealth is having stable relations with brothers and their parents”. 27.3 per cent of those surveyed agreed with this approach. Between material and spiritual values, women often chose spiritual values. For this reason, 26.0 per cent said they were in favor of guaranteeing their visit to their family. Meanwhile 19.7 per cent of women surveyed were convinced that women in Kosovo prefer to let their brothers or parents inherit because of the traditional system of organizing family relations, whereas 7.2 per cent said that support is given to the male child²⁷.

²⁷ For more see the graph.

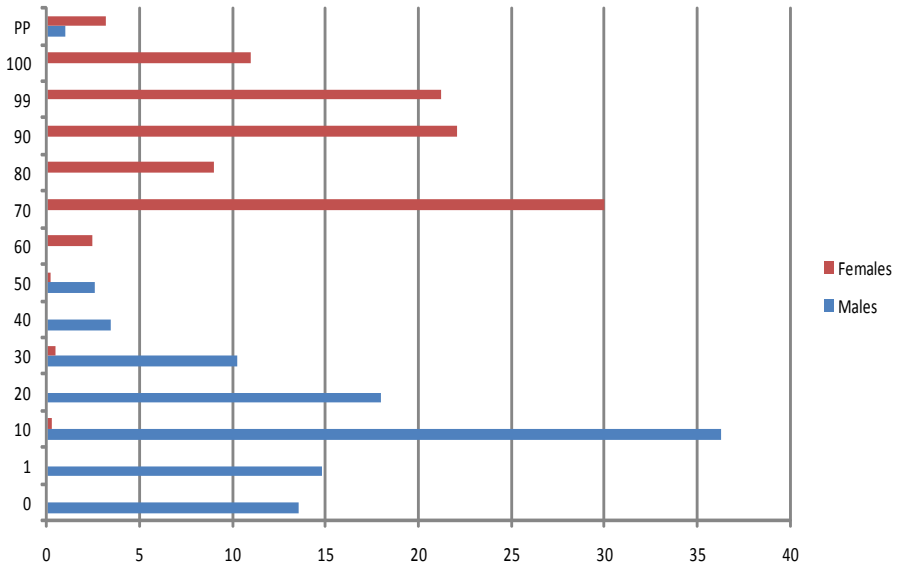


Graph 14

To the question, how supportive parents are of daughters' inheritance, the highest percentage of women surveyed said that they are "partially supported", whereas 24.45 per cent of them think that they "are not supported at all". Meanwhile, those thinking that "they are not supported or unsupported" are 17.25 per cent.²⁸

²⁸ For more see the graph.

How many women and men inherit property in Kosovo (by percentage)



Graph 15

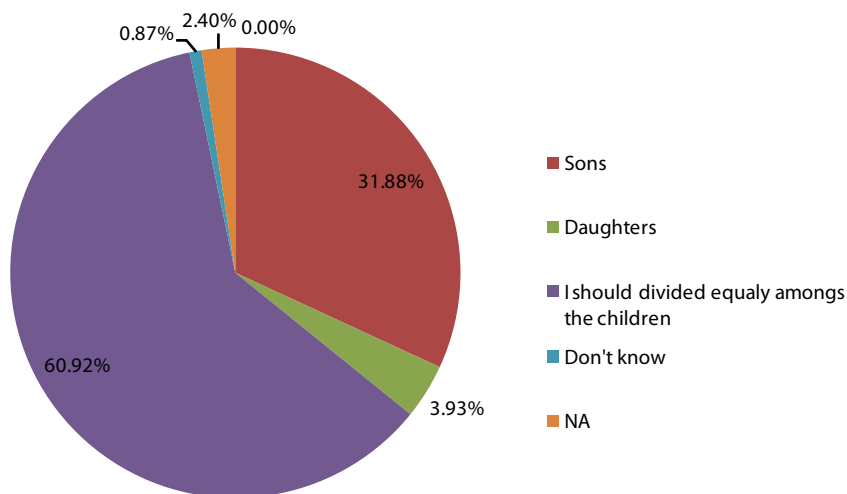
Asked what percentages of women and men in Kosovo have inherited property, the respondents, as can be seen in the graph, put men at a higher percentage than women. Thus, only 10 per cent of women have inherited property, whereas 80 per cent of men have.

As a result of this inequality with regard to property inheritance, many women in Kosovo do not have the necessary collateral to get bank credit.²⁹ This means that they are deprived of the possibility to act independently from men in the economy. Actually, some women try to exercise this right to inherit property according to the law, but the weight of tradition and the family intervenes to effectively block any benefit. "An example from the municipality of Deçan in the south west of Kosovo clearly illustrates this point. A woman from the village of Isniq returned from the United States to hear that her cousin had given away her land which she should have inherited by law, to pay a blood fee. Even though her name was registered as required in the possession lists, she was not able to take ownership of the land or to

²⁹ Maddalena Pezzotti, "Equal in all spheres of life," Fokus Kosova, UNMIK, Office for Gender Issues.

sell it because her cousin blocked her every action"³⁰. Many pathological phenomena such as family violence, according to many investigations, occur as a result of women's failure to realize this right.

Who should inherit?



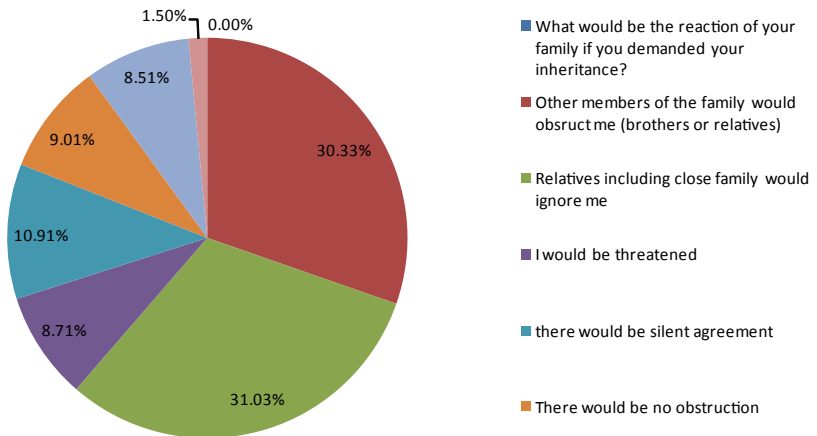
Graph 16

In all questions put, when it came to the option of the two genders, women showed a readiness for progressive thinking about property inheritance. However, if we focus on analyzing the options of boys/men and girls/men, we find some interesting data for actual answers as shown in the graph.

Of the women surveyed, it was found that the actual situation of women in relation to their right to inherit was more difficult than that of men in Kosovo. To the question, who should inherit, 60.92 per cent of women answered that this should be done in equal proportion between the two genders. 31.88 per

cent of women prefer to give their inheritance to their sons rather than their daughters, while 31.88 per cent of them would give their inheritance to their sons, 3.93 per cent of women surveyed would give it to their daughters. So, 27.95 per cent of respondents would be more likely to give their inheritance to their sons than to their daughters, while 2.4 per cent of women said they "didn't know".

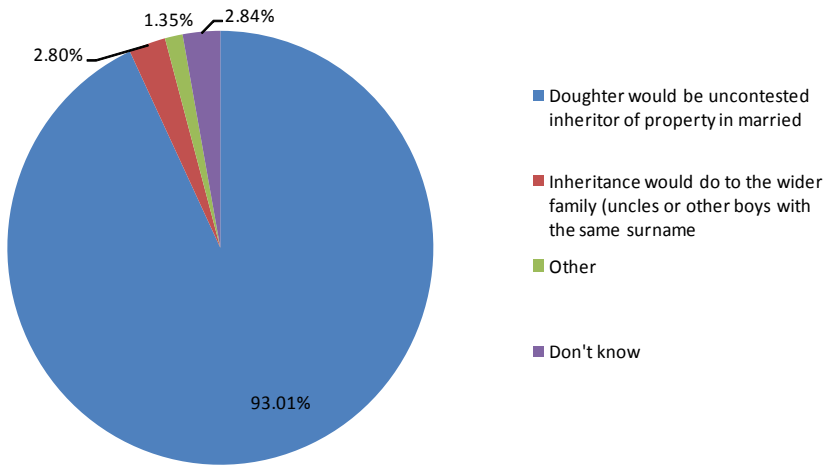
What would be the reaction of your family if you demanded your inheritance?



Graph 17

Women in Kosovo are aware of the consequences if they seek the realization of their right to inherit property. Thus, 31.03 per cent of women fear that in such cases they might be ignored by their relatives and family. On the same topic, 30.33 per cent of women think that achieving this right might be obstructed by other family members, like brothers or their relations, whereas 10.91 per cent think that this issue would be passed over in silence (for more see Graph 17).

If the only inheritor in your family was your daughter, what would you do?

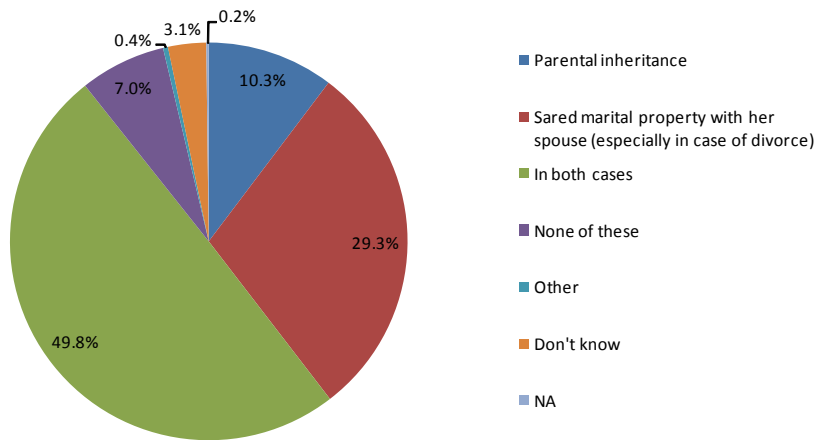


Graph 18

A high percentage of women, 93.01 per cent, were in favor of leaving their property to a daughter, if she was the only inheritor and if she was married. The women surveyed would not hesitate to leave their inheritance to daughters, but only if there was no man in the family.

In many cases, inheritance is understood only as the woman's right to inherit the home of her parents. However, women continue to be deprived of the minimal realization of inheriting shared marital property. In this context, 49.8 per cent of women surveyed stated that women should demand their right to inherit from their parents and shared marital wealth created with their spouse. If we compare cases of parental and marital inheritance, especially in divorce cases, 29.3 per cent of women give priority to shared property and only 10.3 per cent parental property.

In what cases should women demand inheritance rights?

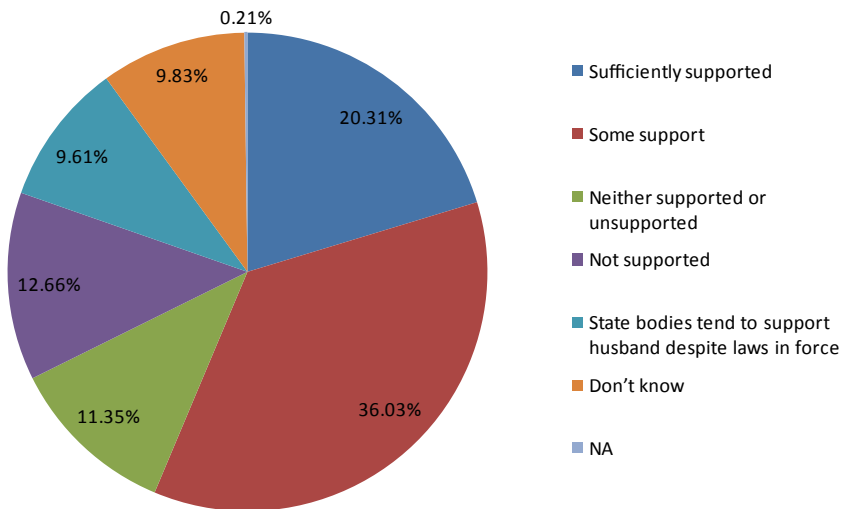


Graph 19

III. Women's trust in the judiciary with regard to property inheritance – Part Three

The problem of women not realizing their property rights is linked to other issues like the poor implementation of the laws in force, insufficient awareness amongst judges about how to treat cases relating to women's rights and property inheritance, high taxes for initiating procedures to transfer inheritance into the names of both spouses, failure to deal with cases and the delay of cases over years etc. This entire institutional vacuum indirectly affects the strengthening of custom and tradition, which does not favor women in Kosovo realizing their property inheritance rights.

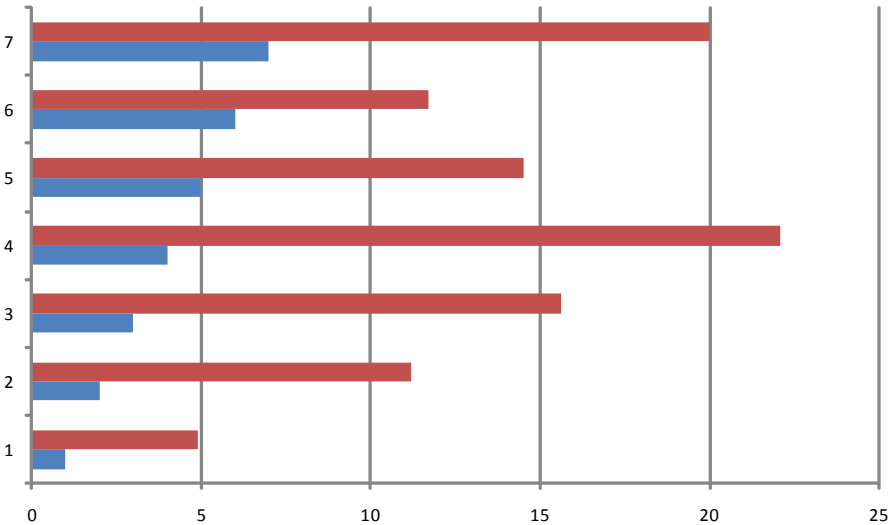
If women seek their inheritance rights, are they supported by state bodies



Graph 20

36.03 per cent of women surveyed think that women have not been strongly supported in realizing their property rights by the responsible bodies. But, 20.31 per cent of them think that women have been sufficiently supported. In contrast, 12.66 per cent of respondents have stated that women are not supported by state bodies in cases when they decide to seek the right to inherit property. Indeed, 9.61 per cent stated that “state bodies tend to take the husband’s side despite the laws in force”. In addition, 9.83 per cent of respondents stated that they didn’t know about this issue.

Respondents’ belief that judicial decisions are just



Graph 21

Respondents showed that they had no experience in initiating a case to review an inheritance case. Hence, on an evaluation scale of 1 to 7³¹, some women believe that these decisions are fair when dealing with their inheritance. As can be seen in the graph, this issue received a high evaluation of 4.

However, at the same time, women think that the current law regulating the sphere of property inheritance is substantial. But women think that court

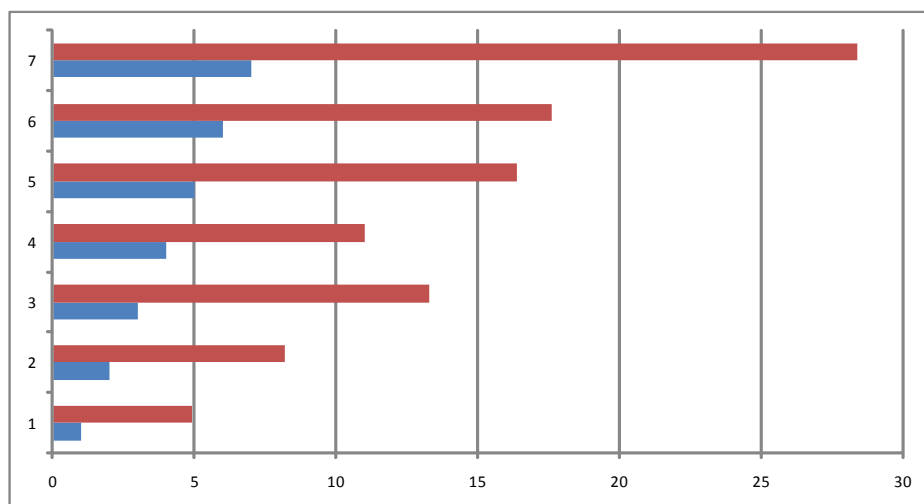
³¹ Number 1 indicates that it is not at all important for achieving property inheritance, independence and impartiality, whereas 7 means that it is very important.

decisions regarding property inheritance should occur within a rational time frame. 23 per cent evaluate this issue with 7, while 19.1 gave it 6.

Women consider that although their inheritance rights are regulated by law, it is poorly implemented in practice.

To the question about whether their rights guaranteed by law have been denied, 28.4 per cent of them gave this 7. (For more see Graph 22)

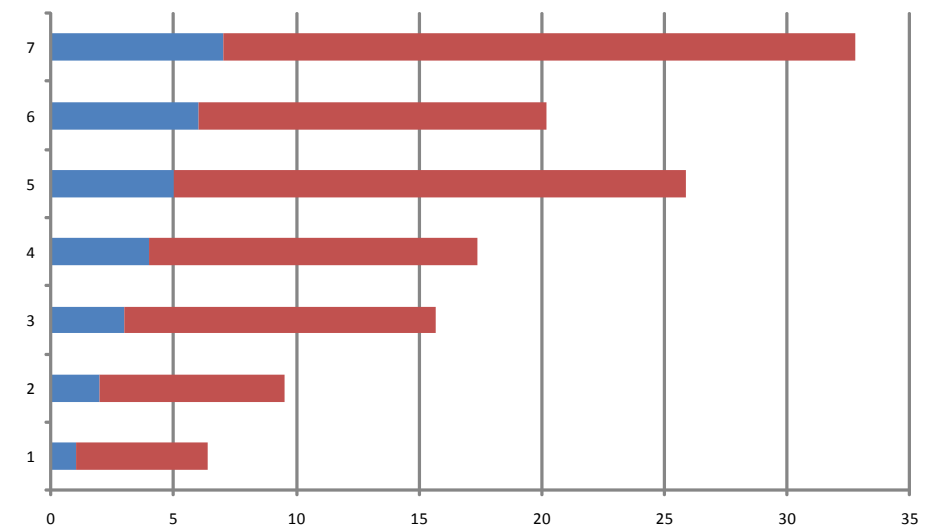
Women's conviction that their inheritance right is being denied



Graph 22

Women think that the high level of corruption in the courts negatively influences the realization of their right to inherit. Such a conviction amongst respondents also affects the low number of procedures initiated to seek their inheritance rights. Regardless of the cultural problems described affecting the successful realization of property rights, women continue to believe in the Law on Gender Equality as a law, which if implemented, would be in their interest, not just with regard to inheritance rights, but improving their position in general in Kosovar society.

Women’s trust in the law on gender equality



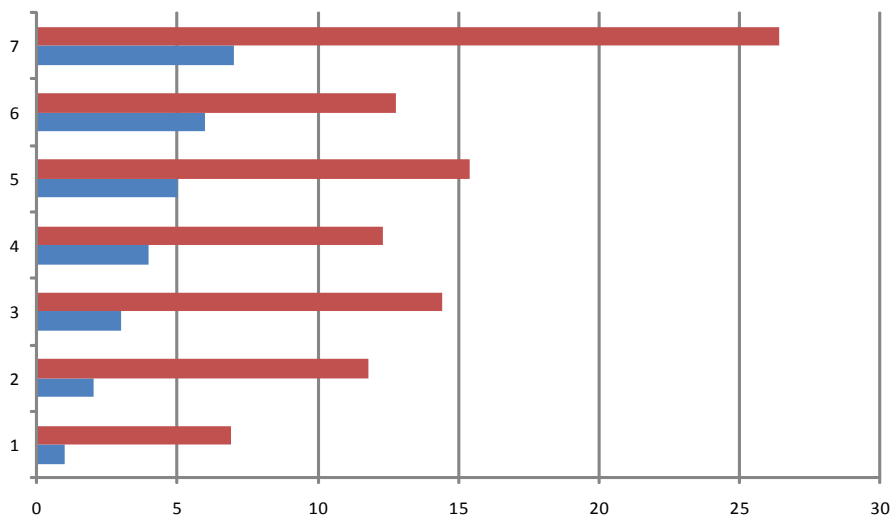
Graph 23

However, the key complaint of women with regard to inheritance against the courts and legislation is that official statistics contain no information about courts’ effectiveness in reviewing women’s property inheritance cases. According to them, if women knew that cases had been concluded successfully in their favor, more would be willing to seek their rights, made impossible by custom, through the civil law³². Thus a large number of women believe that court decisions supporting women should be transparent and promoted by the judiciary.

On the other hand, women are skeptical of the gender sensitivity of judicial institutions when reviewing cases dealing with property inheritance.

³² For more see the graph displayed for “Uninformative official statistics about the effectiveness of judicial institutions dealing with women’s property inheritance”.

Uninformative official statistics about the effectiveness of judicial institutions dealing with women's property inheritance



Graph 24

Serial number _____

Surveyor's initials _____

Date _____

Municipality _____

Women's Property Inheritance Rights in Kosovo

Women's Property Inheritance Rights in Kosovo

I. Demographic data

1) Age _____ (note years)

2) Birthplace

3) Place of residence

1) Town

2) Village

4) Level of Education

1) No school

2) _____ (mark number of years of education completed)

3) Master/Doctor of Science/Specialist

5) Married status

1) Single

2) Married

3) Separated (divorced)

4) Widow

5) Cohabiting

6) Ethnicity

1) Albanian

2) Serb

3) Bosnian

4) Turk

5) RAE

6) Other (specify): _____

7) What is your monthly family income? _____

8) Who provides this income?

Wife

Husband

Children

Other _____

9) In whose name is property registered?

(In whose name is it registered if the respondent is single or married?)

Your comment

II. Women's attitudes to property inheritance

10) ACCORDING TO YOU, WHY DO WOMEN NOT DEMAND THEIR RIGHT TO INHERIT?

Just one answer		
1	Respect for what is appropriate	
2	Customs/social practices	
3	Not bothering parents/brothers	
4	Lack of awareness of their rights	
5	Lack of determination	
6	Predictable dependence on parents after marriage	
7	DON'T KNOW	
99	NO ANSWER	

11) ACCORDING TO YOU, WHAT FACTORS AFFECT THE LOW NUMBER OF WOMEN INHERITING PROPERTY (show card no.1)

Three answers by importance			
1	Fear of transferring property to another family		
2	Denial of women's rights		
3	Lack of women's' participation in decision-making bodies		
4	Registration of land in husband's name		
5	Legal discrimination and complicated legal system		
6	Lack of education		
7	Isolation from the community and neighbors		
8	Their inability to manage property		
9	Inability to take out bank loans to maintain and expand property		
10	Lack of legal will to support women		
11	OTHER (Please specify):		
12	DON'T KNOW		
99	NO ANSWER		

12) WHO DO YOU THINK SHOULD INHERIT PARENTS' PROPERTY?

Just one answer		
1	Sons	
2	Daughters	
3	Both genders	
4	DON'T KNOW	
99	NO ANSWER	

Women's Property Inheritance Rights in Kosovo

13) WHAT DOES INHERITANCE MEAN TO YOU?

Please circle		
1	Land	
2	House	
3	Livestock	
4	Gold	
5	Ready money	
6	Business	
7	OTHER (Please specify):	
8	DON'T KNOW	
99	NO ANSWER	

14) WHY DO YOU THINK WOMEN IN KOSOVO PREFER TO LEAVE THEIR INHERITANCE TO THEIR BROTHERS OR PARENTS?

Please circle		
1	They consider their wealth to be stable relations with their brothers and parents	
2	Guaranteeing their visits to and from their family	
3	Low awareness	
4	Lack of information about the right to inherit	
5	Support given to the male child	
6	Traditional mentality	
7	OTHER (Please specify):	
8	DON'T KNOW	
99	NO ANSWER	

15) HOW SUPPORTIVE ARE PARENTS OF THEIR DAUGHTERS' RIGHT TO INHERIT?

Just one answer		
1	Not at all supportive	
2	Not very supportive	
3	Neither supportive or unsupportive	
4	A little supportive	
5	Strongly supportive	
5	DON'T KNOW	
99	NO ANSWER	

16) WHO INHERITS MOST COMMONLY?

Women % Men % (mark percentage)

17) PLEASE TELL US WHO YOU WILL GIVE YOUR INHERITANCE TO?

Just one answer		
1	Sons	
2	Daughters	
3	I would distribute it equally between all the children	
5	DON'T KNOW	
99	NO ANSWER	

18) IF THE ONLY INHERITOR IN YOUR FAMILY WAS YOUR DAUGHTER, WHAT WOULD YOU DO?

Just one answer		
1	The daughter would be the uncontested inheritor of property even if she would get married	
2	The inheritance would go to the wider family (uncles, or other boys with the same surname, or beyond).	
3	Other	
4	DON'T KNOW	
99	NO ANSWER	

19) WHAT WOULD (COULD) BE THE REACTION IN CASES WHERE A WOMAN DEMANDS HER SHARE OF THE INHERITANCE?

Just one answer		
1	Other parts of the family would obstruct her (brothers or relations)	
2	She would be ignored by her relatives including her family	
3	She would be threatened	
4	There would be silent agreement	
5	There would be no obstruction	
6	DON'T KNOW	
99	NO ANSWER	

20) IN WHAT CASES SHOULD WOMEN DEMAND THEIR INHERITANCE RIGHTS?

Just one answer		
1	Parents' inheritance	
2	Joint marital property with husband (especially in case of divorce)	
3	In both cases	
4	In none of these cases	
5	Other	
6	DON'T KNOW	
99	NO ANSWER	

Women's Property Inheritance Rights in Kosovo

21) IF A WOMAN DEMANDS HER RIGHT TO INHERIT, HOW MUCH SUPPORT AND PROTECTION DO STATE BODIES GIVE HER IN ORDER TO ACT CONTRARY TO THE AGREEMENT OF HER FAMILY OR OTHERS?

Just one answer		
1	Sufficiently supportive	
2	A little supportive	
3	Neither supportive or unsupportive	
4	Not supportive	
5	State bodies tend to support the husband despite the law in force	
5	DON'T KNOW	
99	NO ANSWER	

22) PLEASE EXPRESS THE LEVEL OF YOUR AGREEMENT WITH THE ATTITUDES IN THE TABLE BELOW:

		Strongly agree	Agree	Neither agree or disagree	Disagree	Disagree strongly	DON'T KNOW	Ref/NA
1	The wife of testator gives up her rights in favor of her children, respectively sons	1	2	3	4	5	6	9
2	In some cases, the wife of the testator, even if there are no children, gives up her inheritance in favor of brothers-in-law or men of the family of the testator	1	2	3	4	5	6	9
3	In cases where the only heirs are women, all inherit equally and very rarely give up their inheritance rights.	1	2	3	4	5	6	9
4	Even though inheritance is regulated by law, in most cases it is regulated in practice by tradition.	1	2	3	4	5	6	9
5	Taxes for procedural expenses are high and this can obstruct the initiation of procedures for reviewing inheritance, making the woman's position more difficult.	1	2	3	4	5	6	9
6	Even if the inheritance right is guaranteed by law, I would still decide to give my property to sons of the family, as they are the family's heirs	1	2	3	4	5	6	9
7	Women realize their right to property in their husband's family so they have no right to inheritance.	1	2	3	4	5	6	9

23) IN YOUR CIRCLE OF ACQUAINTANCES, IS THERE A CASE WHERE A DAUGHTER INHERITED?

Just one answer		
1	In my neighborhood	
2	In my family	
3	It has never happened	
4	It is never expected to happen	
5	DON'T KNOW	
99	NO ANSWER	

Your comment

(If the answer is negative, ask for an explanation for why this situation occurs)

24) AT WHICH TIME DO YOU THINK INHERITANCE IS NECESSARY?

	Women	Men
1	After the birth of children	
2	During education	
3	At marriage	
4	Other (specify)	
5	DON'T KNOW	
99	NO ANSWER	

III. Women's trust in the judiciary regarding property inheritance

Women's trust in the judiciary's independence and impartiality, gender sensitivity in the Kosovo courts, women's trust in equality of all citizens before the law; functionality of the legal state and possibility of realizing rights to legal protection.

A. Evaluate the importance of each indicator about the achievement by the courts of independence and impartiality on a scale of 1 to 7 (Number 1 means that this indicator is not at all important for achieving property inheritance, independence or impartiality whereas 7 is very important).

B. Evaluate gender sensitivity in the Kosovo courts bearing in mind the indicator content (1 means «there is no gender sensitivity in the courts in Kosovo», whereas 7 means «there is a high level of gender sensitivity in the Kosovo courts»).

ANNEX: QUESTIONARE

		(A) Importance of impartiality and independence of the courts	(B) Gender sensitivity in the Kosovo courts
	Women believe that court decisions are just	1 2 3 4 5 6 7	1 2 3 4 5 6 7
	Women believe that court decisions will be implemented within a rational time frame	1 2 3 4 5 6 7	1 2 3 4 5 6 7
	Women believe in the courts independence	1 2 3 4 5 6 7	1 2 3 4 5 6 7
	Women believe there is non-implementation and corruption within the courts	1 2 3 4 5 6 7	1 2 3 4 5 6 7
	Women's subjective conviction that guaranteed inheritance rights are denied	1 2 3 4 5 6 7	1 2 3 4 5 6 7
	Women's trust in gender equality before the law	1 2 3 4 5 6 7	1 2 3 4 5 6 7
	Uninformative official statistics about the effectiveness of judicial institutions with regard to women's property inheritance	1 2 3 4 5 6 7	1 2 3 4 5 6 7
	Promotion and transparency when women win property through the courts	1 2 3 4 5 6 7	1 2 3 4 5 6 7

Thank you!

Information for the interviewer

Municipality _____

Residence _____

Name and surname of interviewer _____

Date of survey _____

Duration of survey _____

INTERVIEWER'S OBSERVATIONS ON:

Sincerity 1 2 3 4 5

Cooperation 1 2 3 4 5

QUESTIONNAIRE SUPERVISOR

FIELD SUPERVISOR

DATA ENTRY IN COMPUTER
