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Learning Brief

Women and Property

This Learning Brief analyzes property and inheritance rights in Kosovo with focus on women's access to those rights from the legislative perspective, implementation perspective and from the perspective of attitudes of women and children. While the legislative and implementation perspective are analyzed from the existing legal documents and reports, the attitudes of women and children summarize the qualitative data and findings from over 20 debates with around 400 women and children coming from both rural and urban areas. These debates initially discussed gender equality in Kosovo and how it is perceived and then gradually shifting to challenges in equal access to property rights.

Executive summary

This Learning Brief is produced as part of the project "Stand for Her Property" implemented by Kosova - Women 4 Women, under the Equality Engagement Program - E4E, financed by the United States Agency for International Development - USAID Kosovo and supported by the Advocacy Training and Resource Center - ATRC. The goal of this project is to raise awareness among women and children on women's property & inheritance rights and to empower women to seek that right. In this regard over 180 women coming from various municipalities throughout Kosova participated in Information Sessions about

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the updates regarding the legislation on property and inheritance rights, as well as the National Strategy on Property Rights. The project also supported and empowered 15 women, who have registered the property in their own name or as a joint marital property, in advancing their business or economic activity. Finally, the project targeted children and youth for awareness raising activities and organized the debates which mobilized over 400 women and children to discuss about the challenges of inheriting property, benefits of having ownership on a property as well as the current legislation regarding property and inheritance rights.

Property Rights in Kosovo

The legal framework that address property and inheritance rights *in Kosovo* provides equal opportunities for both female and male participation. *The constitutional order of the Republic of Kosovo is based on the principles of freedom, peace, democracy, equality, respect for human rights and freedoms and the rule of law, non-discrimination, the right to property, the protection of environment, social justice, pluralism, separation of state powers, and a market economy.* (Constitution, Article 7, paragraph 1)

In this regard, some of the main legal acts that regulate property and inheritance rights include:

- [Law No.2004/32 Family Law Of Kosovo;](#)
- [Law No.2004/26 Law On Inheritance In Kosovo;](#)
- [Administrative Instruction \(GRK\) No. 03/2016 On Special Measures For Registration Of Joint Immovable Property On Behalf Of Both Spouses;](#)
- [Kosovo National Strategy On Property Rights.](#)

As per the international Instruments that are applicable in Kosovo include the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), described as an international bill of rights for women. Specifically, the Convention Requests States to undertake all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family, and in particular to ensure the same rights for spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property. (CEDAW, article 16.1). The Universal Declaration of Human Rights recognizes the importance of rights in property, stating that (1) Everyone has the right to ownership, whether individually or in association with others. (2) No one shall be arbitrarily deprived of his/her right of ownership (Declaration, Article 17).



Key findings from the debates:

The debates took place with over 20 groups (majority and non-majority) virtually and we have tried to tackle different themes such as *Gender Stereotypes, Registration of property as a joint marital property, Women's Inheritance from the family of birth, Women's Inheritance from deceased spouse*, etc. These debates were co-facilitated by Municipal Gender Officers from a number of Municipalities, Law students and Women Change Agents who were recruited to follow-on the awareness raising activities in their communities.

The content shared on this learning brief is based on the women's personal stories, their messages and opinions regarding the topic. The geographic regions covered in these debates includes the Municipalities of Prishtina, Ferizaj- village of Balaj, Komogllave and Rahovice, Kacanik- village of Dubrave, Podujeva- village of Batllava, Mitrovica- village of Vaganice, Lipjan, Fushe Kosova, Drenas, and Malisheva.

Some of the key findings from the debates were:

- The main factors that hinder women to have equal access and control in property include: embedded discriminatory social norms, lack of a gender-sensitive approach amongst institutions, poor access to legal services and poor enforcement capacities

- The phenomenon of being excluded from inheritance occurs mainly for two reasons, being it: the feel of shame and fear of visiting their family members if they inherit the property equally with the male members of the family, and the conviction that property doesn't belong to women since they don't bring any financial contribution in the family
- Women's awareness and other family members among property and inheritance rights remains a challenge resulting in a big scope of problems when it comes at claiming these rights
- Having property ownership drastically improves her position in economy, becoming more financially independent and extend the levels of decision-making processes within the family

Why do property rights matter?

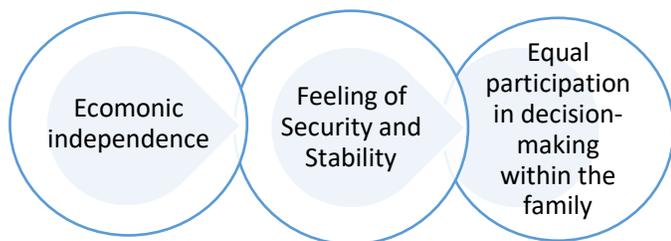
The right to property is a fundamental human right, recognized within Article 17 of the Universal Declaration of Human Rights (UDHR), stating that *Everyone has the right to own property alone or in association with others and that no one shall be arbitrarily deprived of his/her property*. Given what has been said,

raising awareness on the current legislation regarding property and inheritance rights amongst women affects their way of living in many aspects. Women’s land ownership is a nexus in women’s economically empowerment, having a safe-space at home and in being more confident in making their own decisions. We have witnessed that women’s access to land has bettered their position in well-being. Possessing a property in their own names has opened doors in benefiting from various grants and subventions which helped them in pursuing their ideas in business. In this regard, another significant improvement was the feeling of being more secure in their homes in case of potentially being victimized by domestic violence. During the pandemic the importance of having property ownership was spotlighted when the cases of gender-based violence raised globally and women were forced to share the same house with the abuser.

Gender stereotypes rooted from early childhood

Gender stereotypes about *who can be, where do you belong* and *what are we good at* have important consequences in further life. The majority of opinions amongst young women and men aged between 14-20, were relatively discriminatory. When asked about what professions are most suitable for women, most common answer included being a hairdresser, working in education or tailoring. Such stereotypes have directly influenced men’s opinion when discussing about women in property. Most of young men didn’t accept the idea of a women owning property, since based on their opinions they don’t bring a high financial income in the household. We noticed that children who came from more rural areas had a more traditional attitude in comparison from those coming from urban areas. Regardless of that, both groups had an idea of the gender roles within the family by distinguishing the role of women in taking care of the kids, cooking, cleaning and taking care of the garden, in oppose to men where their mostly seen engaged in outside the house –lucrative activities. In younger age groups (13-15), children had some discriminatory ideas such as perceiving pink as a color for girls only or playing with cars as an activity only for boys. Nevertheless, we have also witnessed discrepancies on how children perceive gender stereotypes based on their age. Younger boys (14-17) appeared to have a

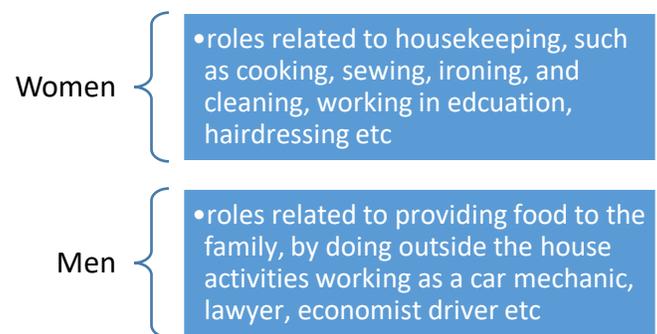
Figure 1.1 Importance of property ownership



more unbiased approach when asked about gender roles within the family. A boy from Municipality of Malisheva recalled: "I wouldn't mind to serve tea when we have guests over". However, compared to boys who are older in age (+17), they had evidently different views. "I would fix my bed only if my sister isn't home or is busy doing something else" – recalled a boy aged 19 from Municipality of Podujeve, village of Orllan. Girls from all age groups were less independent when compared to their brothers, a young girl aged 15 from village of Balaj recalled: "It's not fair that my brother can go hang out with his friends whenever he wants, and I don't get the same opportunity" another girl from Municipality of Podujeva recalled "We have been taught that taking care of the house is mandatory for girls and optional for boys". During the debate we also found that families who live in extended families faced more difficulties in overcoming gender stereotypes in comparison to families with smaller ones. Overall, it may be said that age. Another factor identified to influence on how children perceive gender roles. Children form age group of 14 to 16 seemed to be less biased when discussing about gender roles within the family, schools or other educational institutions, in comparison to older age groups who were more dogged in changing attitudes towards an unbiased gender perspective. Overall, it may be said that children from younger age groups and who come from more urban areas seemed to be less biased when discussing about gender

roles within the family, schools or other domains, when compared to the opposite groups. On this basis, we conclude that family is the elementary cell of learning and developing attitudes, thus, having more this sort of discussions would play a crucial role in children's mind and behavior development.

Figure 1.2 Gender Stereotyped Jobs



Registration of property as joint marital property

We have witnessed that meeting role models motivates women to seek their rights. Therefore, during this part of the debate we encouraged women who have property ownership to share their own experience. During the debate most of the attendees weren't aware of the opportunity of registering property as joint marital



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Women's opinion in inheriting property:

- ✓ "I think I'm asking for a lot if I inherit property from the birth of family as well as from my spouse"
- ✓ "Having harmony in marriage is more important than possessing property"
- ✓ "If I try to claim my property rights I will cause problems in the marriage resulting in divorce"
- ✓ "Me and my sisters were excluded from the inheritance without being aware of it, my brother took care of the property and build a house where he still lives with his spouse and kids"
- ✓ "Me and my sisters come from a very poor family there was so little to share, so we gave it to our only brother"

property. Therefore, we tried to orient the debate towards what is considered joint marital property in comparison from co-ownership of property, the procedures of registration, ranks of inheritance, as well as special measures for registration of joint immovable property on behalf of both spouses. The majority of women believed that since they're not engaged in profit-making activities, they shouldn't be a subject in participating equally with men in property. "I don't have any rights on this house, I don't possess any document that I have worked for or outside of this house, being it, I don't have the right to participate in decision-making processes regarding claiming my rights in property" recalled a woman coming from village of Komogllave. In this regard we broke down the concepts of what makes a joint marital property, the benefits of it as well as the weight of their contribution in the family both monetary and non-monetary. The role models have explained how property ownership has helped them to start a business, take out

loans and have collateral. Women were instantly very motivated by hearing these successes storied and expressed their will to register the property in both spouses' names. A woman from the village of Dubrave gave the following feedback: "My husband was in the same room with me and really enjoyed the debate. After being informed of having a shared property ownership, we started to make plans on registering property in both our names."

Inheriting from the family of birth

The discussion regarding women's inheritance from family of birth was opened by questioning women on Do you think that brothers and sisters should divide the property equally? What are the advantages of inheriting property from the family of birth? We encouraged women to explain how do they perceive their own rights in



property, their contribution in the family, as well as the factors that hinder them to claim their rights.

The opinions of debate participants were very different. The majority of participants believed that they're discriminated from the moment of birth, since having a boy in a family was always more preferable in Albanian families than having a girl.

They faced many challenges when it came at claiming their rights in property because they were afraid from causing conflicts with their brothers and never seeing them again. Or, if they claimed the rights equally they mentioned that they would feel really ashamed to visit their parents or brothers again. This concludes that for women, emotional connection is more important than having access to property.

In the meantime, a group of women believed that they don't deserve equal participation in inheriting property because one day they will get married and move to the house of the spouse.

A very important factor mentioned at why men members of the family do not share the property equally with women, was that they don't want the son in law to take the benefits of the land. In this case we witnessed that lack of awareness underlies a very important barrier to claiming property rights, because it is not the son in law who will enjoy the benefits, it is their daughter and their grandchildren that will have those benefits. This right is recognized in the Family Law of

Kosovo stating that (2) Separate property is also property acquired during marriage through inheritance, donation, or other forms of legal acquisition (Article 46, paragraph 2).

Considering that, we elaborated the concept of separate marital property - property acquired before the marriage, inherited/donated property, the share of the joint property that belongs to each spouse, art work and intellectual property.

The reliance on male partners or members, has caused a barrier for women to have property ownership, resulting in not claiming their rights in land. The majority of women coming from both rural and urban areas, perceived themselves as ineligible to inherit property from their family of birth, stating that: " male members of the family were the only ones who took financial care of the household, being it, they get to inherit the property".

Women aren't likely to consider the option of dissolution of the marriage. Given that, owning property is not essential for them, resulting in renouncement to inheritance.

The bright side of the story stands on the fact that the majority of women agreed they that will act differently from their parents, by sharing the property equally with their own children. Even though, they weren't aware of the fact that the Law on Inheritance states foresees that by renouncing from their inheritance, they renounced on the name of their minor children as well.



Yet another factor mentioned from women on why they don't inherit the property from the family of birth was that they don't want to damage economically their male members of the family by "taking" their property, since one day they will get married and be financially supported by their spouses. We continually took examples the consequences of not claiming right in property, being stuck in the same house with the abuser, ending up homeless after divorce, being depended from their partners in many areas etc. All of them agreed with the nexus of property ownership and economic empowerment. Women wouldn't stay in a violent environment if they had property on their own names, inherited from their family or as a joint marital property.

Women's Inheritance from surviving spouse

To this day, women face discrimination in inheritance upon the death of their spouse. This phenomenon occurs mainly for two reasons, either because the shares of the estate are inadequate or because the marital home was not registered in the name of one of the spouses, but of a different family member, and therefore cannot be considered to be part of the marital property¹. The fact that property purchased during the marriage is rarely in the name of the female spouse

contributes to this problem. A woman coming from the Municipality of Lipjan gave a personal example where the spouse was thrown out of the house by her father in law, the moment her spouse has died.

These cases should be prohibited by the law, by enabling women to inherit property despite the validity of their marriage or if they had a joint marital property. In this context, widespread property informality and renouncement in inheritance rights has weakened the position of women in the family. Women face many challenges after their spouses die, especially if they didn't have children. In majority of cases, the surviving spouse has no access to her home or any other property, leaving her with inadequate means for survival. In this context, we explained the importance of registering the property in the name of both spouses in order to be considered to be a part of the marital property, in case of marriage dismemberment or death.

This document was prepared by Argjenta Svirca with the contribution from Iliriana Gashi, Vesa Rezniki-Pallaska and Vjollca Suldashi.

The original material was written in English.

¹ http://kryeministri-ks.net/wp-content/uploads/docs/National_Strategy_and_Annexes_ENG.pdf