

WOMEN'S AGENCY, GENDER DYNAMICS, AND INHERITANCE RIGHTS IN REPUBLIC OF KOSOVA

By
Samire Gurgurovci

MA in Human Rights / Thesis

SUPERVISOR: Dr. Inga Winkler

Central European University - Private University

Quellenstrasse 51-55, 1100 Vienna Austria

Executive Summary

This thesis focuses on the persistent challenge of women's inheritance rights in Kosovo, examining the cultural norms and traditional practices that shape women's access to inheritance. Using an intersectional feminist lens, the study explores the interplay between human rights, gender, culture, and social norms in the context of inheritance. Drawing inspiration from feminist scholars work on intersectionality, gender, human rights, and culture which emphasizes visibility of diverse cultural practices and seeks to reconceptualize the relationships between women and their families in the context of inheritance practices. My thesis aims to uncover the motivations, reasons, and practices of Kosovo Albanian women regarding their choices to claim or not claim their inheritance. The study adopts a critical approach to engage with the cultural values, traditions, and beliefs that influence women's decision-making and opportunities in accessing family inheritance. Through a literature review and interviews with women in Kosovo, the research aims to shed light on the complex ways in which cultural norms intersect with gender in relation to inheritance. By situating women's experiences within their cultural framework, the study challenges essentialist assumptions and promotes a nuanced understanding of the diverse ways in which cultural practices shape women's agency and decision-making. It acknowledges the significance of cultural practices that have worked well for women but also examines the underlying gender inequality and discrimination that may be perpetuated by certain practices. The study highlights that land disputes related to women's property and inheritance rights are a critical human rights issue in Kosovo, impacting both development and women's empowerment. It underscores the need to address the social and cultural factors that contribute to gender inequality while also respecting the cultural practices that hold significance for women. By examining the historical and cultural background of inheritance practices, the study provides a foundation for understanding the complexities and challenges

surrounding women's inheritance rights in Kosovo. Through this approach, the study aims to foster a nuanced understanding of women's inheritance rights, promoting gender equality, cultural sensitivity, and human rights principles. This research contributes to the broader discourse on women's rights, cultural practices, and social change. By uncovering the motivations and experiences of Kosovo Albanian women, it offers insights into the transformative potential of cultural shifts and the empowerment of women within their communities.

Acknowledgments

I am extremely grateful to my supervisor, Dr. Inga Winkler, for her advice, patience, and immense support. Her guidance, feedback, and vast knowledge have encouraged me in my research and my daily life.

I would like to extend my deepest gratitude and honor to my mother, Zoja Hamza, for her unconditional support, compassion, and resilience. Embracing our differences continuously inspired and comforted me.

To Salma, Blerina and Liasis, I am incredibly grateful for being there during my moments of struggle and for continuously pushing me to do my best. Your support and reminders of the bigger picture kept me focused and motivated.

I would like to express my deep appreciation to all the participants who generously shared their insights and experiences during the interviews conducted for my thesis. Without them, this thesis would not have been complete.

Lastly, I want to acknowledge the collective support and encouragement from my family, all the individuals who have played a role in my academic and personal growth. Your presence, advice, and encouragement have been crucial in shaping my path, and for that, I am truly grateful.

Table of Content:

<i>Executive Summary</i>	<i>ii</i>
<i>Acknowledgements</i>	<i>iii</i>
<i>Table of Contents</i>	<i>iv</i>
1. Introduction.....	1
Background Information.....	4
Culture, Human Rights and Women’s Inheritance Rights.....	8
Objective and Research Interest.....	17
Methodology and fieldwork.....	18
2. Chapter 1: Exploring the Interplay: Legal Framework, Social Norms and Religion...20	
The inheritance legal framework in Kosovo.....	20
Islam and Women’s rights to inheritance.....	22
Social Norms and Customary law.....	24
3. Chapter 2: Unveiling perspectives; Inheritance and Women’s Agency.....27	
Awareness of their legal rights.....	28
Motivations for exercising the right to inherit.....	29
Reasons for not exercising the right to inherit.....	29
Shattered Trust and Betrayal – Family inheritance dynamic.....	33
Gift as an alternative to inheritance.....	35
Strong desire that young women claim inheritance.....	37
4. Conclusion.....	38
5. Bibliography.....	41

Introduction

In Kosovo, the issue of women's inheritance rights persists as a deeply entrenched challenge, rooted in cultural norms and traditional practices. This research aims to shed light on the struggles faced by women in Kosovo as they navigate the cultural landscape surrounding inheritance practices. Within this complex context, taking into account women's experiences in relation to inheritance necessitates an exploration from an intersectional feminist lens. This perspective allows me to delve into the intricate interplay between human right, gender, culture, and social norms that shape women's access to inheritance, revealing the transformative potential of cultural shifts in promoting gender equality. Intersectional feminism, as an analytical framework, emphasizes the importance of recognizing and respecting diverse cultural experiences, including the agency and choices exercised by women within their cultural contexts. Ange-Marie Hancock delves into two essential dimensions of intersectionality: visibility and reevaluating the connections between different categories. She stresses the significance of "situational contingency" within intersectionality theory, which acknowledges and incorporates the fluidity of the binary division between the oppressed and the oppressor.¹ Drawing inspiration from these concepts, this thesis aims to gain insight into women's decisions regarding inheritance rights by understanding their perspectives. By doing so, it seeks to illuminate the intricate interplay of factors influenced by intersectionality and how they shape women's choices in the context of inheritance practices.

By adopting this lens, I attempt to critically engage with the cultural values, traditions, and beliefs that shape women's choices, opportunities and limitations in accessing family

1. Ange Marie Hancock, *Intersectionality: An Intellectual History* (New York: Oxford University Press), 2016, pg. 110.

inheritance. Through an exploration of literature review and interviews, this thesis seeks to uncover the complex ways in which cultural norms intersect with gender in relation to inheritance. By situating women's experiences within their cultural framework, I aim to challenge essentialist assumptions and promote a nuanced understanding of the diverse ways in which cultural practices can shape women's agency and decision-making. Furthermore, this research endeavors to identify possibilities for cultural transformation and the empowerment of women within their communities. By recognizing the dynamic nature of culture and the potential for change, bringing strategies and interventions that encourage more equitable inheritance practices for all people is essential. This thesis seeks to illuminate the multifaceted landscape of women's inheritance rights in Kosovo that centers the agency, experiences, and aspirations of women within their cultural contexts.

Land disputes related to women's property and inheritance rights have emerged as a critical human rights issue in Kosovo, presenting obstacles to women's empowerment as these practices are deeply rooted in their identities, histories, and communities. In order to gain a comprehensive understanding of the significance of women's inheritance rights in Kosovo, it is important to establish a foundation by exploring the historical and cultural background of inheritance practices. Examining the prevailing gender norms, societal expectations, and cultural beliefs surrounding inheritance sheds light on the broader context within which women's inheritance rights are situated. This thesis is built upon the necessity to recognize the diversity of cultural perspectives and practices while critically examining their impact on gender equality. one can foster a nuanced understanding of the complexities and challenges surrounding women's inheritance rights in Kosovo and work towards promoting gender equality and empowerment within the framework of cultural sensitivity and human rights principles.

This thesis aims to explore the intricate dynamics surrounding women's inheritance rights in Kosovo, considering the interplay between the legal framework, social norms, and religious influences. The introductory chapter provides an overview of the thesis, highlighting the significance of culture, human rights, and women's inheritance rights as the focal points of the research. The methodology employed for the study, including fieldwork, is briefly described. Chapter 1 delves into the interplay between the legal framework, social norms, and religion. It examines the inheritance legal framework in Kosovo, emphasizing its implications for women's inheritance rights. Additionally, the chapter explores the role of Islam in shaping women's inheritance rights as well as the social norms and customary law on inheritance practices. In Chapter 2, the focus shifts to uncovering the perspectives and agency of women in the context of inheritance. It delves into the perspectives of women, which derives from the semi-structured interviews.

Background information

The social structure in Kosovo currently consists of 92.3 percent ethnic Albanians, the majority of whom are Muslim.² Kosovo's history has been marked by struggles for autonomy, self-determination, recognition, and equal rights. Throughout the centuries, the people of Kosovo have faced challenges related to their ethnic, religious, and cultural identity. Being part of different empires³ to experiencing geopolitical shifts and conflicts, the Kosovo population has often found itself in situations where their inclusion within broader political entities did not fully address their specific needs and aspirations.

The political and economic situation in the former Yugoslavia, in general, and in Kosovo particularly, had worsened considerably in the 1980s⁴. Following the death of Josip Broz Tito, the former president of the Socialist Federal Republic of Yugoslavia in 1981 and the revocation of Kosovo's autonomy in 1989, civil instability resulted. This was followed by years of conflict between ethnic Albanians and the Serbian government. The conflict intensified in the late 1990s, leading to NATO's intervention in 1999.⁵ The conflict in Kosovo was characterized as a systematic campaign of repression and violence targeting the ethnic Albanian population by Serbian forces. Reports of mass killings, forced displacement and widespread human rights abuses reached the international community, prompting a moral and political imperative to intervene. The situation was viewed as a threat to regional stability and a violation of basic human rights; therefore, NATO launched a military campaign aimed at

2. Ghaffar, Mughal Abdul. "Muslims in Kosovo: A Socio-economic and Demographic Profile: Is the Muslim Population Exploding?" *Balkan Social Science Review* 6 (2015): 155-201.

³ Sylë Ukshini, "Kosovo: From the Ottoman Empire through Yugoslavia to Independence," *Journal of Balkan and Black Sea Studies*, Issue 6 (June 2021): 239 – 286, ID: 0000-0002-8205-5288.

4. Ardiana Gashi and Amir Haxhikadrija, "Social Impact of Emigration and Rural-Urban Migration in Central and Eastern Europe." European Commission DG Employment, Social Affairs and Inclusion, (2012), <https://ec.europa.eu/social/BlobServlet?docId=8861&langId=en>.

5. NATO, "NATO's Role in Kosovo," NATO, January 9, 2023, https://www.nato.int/cps/en/natolive/topics_48818.htm.

curbing the violence and protecting the civilian population.⁶ This intervention raised complex questions about the legitimacy and legality of humanitarian intervention, the role of regional organizations in addressing human rights crises, and the responsibility of the international community to prevent mass atrocities.⁷ Despite the controversies surrounding the intervention, it served as a turning point in recognizing the need for collective action to address severe human rights violations and has since influenced discussions on the responsibility and the limits of state sovereignty.

The prevailing cultural norms and patriarchal traditions further compounded these challenges, as women's rights were and are often subordinated to those of male relatives. The displacement and disruption caused by the conflict led to a breakdown in legal and administrative systems, making it difficult for Kosovars to navigate the complex processes of claiming and securing their inheritance rights. The lack of proper documentation, destruction of property records and the general chaos of the post-war period further hindered Kosovars' ability to assert their claims.⁸ Nevertheless, despite all of these societal and political difficulties, after the war, with a sizable international presence in Kosovo, advocacy for institutional and legal changes to guarantee human rights protections in Kosovo began to take place.⁹

Following the intervention, Kosovo was placed under United Nations Interim Administration (UNMIK) with UN Resolution 1244, with the aim of establishing a democratic and multi-

6. Lord Robertson of Port Ellen, "Kosovo one year on achievement and challenges," NATO, March 21, 2000, https://archives.nato.int/uploads/r/null/1/3/137989/0346_Kosovo_one_year_on-Achievement_and_Challenge_2000_ENG.pdf.

7. Ruth Wedgwood, "NATO's Campaign in Yugoslavia," *The American Journal of International Law* Vol. 93, No. 4, October 1999, pg. 828.

8. Leopold von Carlowitz, "Crossing the Boundary from the International to the Domestic Legal Realm: UNMIK Lawmaking and Property Rights in Kosovo," Vol. 10, No.3, July – September 2004, pg. 308. <https://www.jstor.org/stable/27800531>

9. Marcus Brand, "The Development of Kosovo Institutions and the Transition of Authority from UNMIK to Local Self-Government," *Cluster of Competence, The Rehabilitation of war-torn societies - A Project co-ordinated by the Centre for Applied Studies in International, Geneva, January 2003*, pg. 51-52. <https://reliefweb.int/attachments/0545984d-9f5a-312b-bee9-06b935b4273f/4FA93098A07824C5C1256CC9002DE8E0-casin-kos-31jan.pdf>

ethnic society.¹⁰ In 2005, negotiations began between Kosovo and Serbia to determine the status of Kosovo, but no agreement was reached. In February 2008, Kosovo's parliament declared independence, which was supported by many Western countries, including the United States and several European Union member states.¹¹ Since the declaration of independence, Kosovo has received recognition from numerous countries. Initially, countries such as the Republic of Costa Rica, the United States, France, and others were among the first to recognize Kosovo's independence. As of today, a total of 117 countries have recognized Kosovo as an independent state.¹²

However, Serbia and its allies, including Russia, opposed the move and continue to regard Kosovo as a part of Serbia.¹³ The situation has created tensions in the region and remains a source of political and diplomatic dispute. However, after Kosovo declared independence, UNMIK gradually had less control over its administration. As a result of this political and diplomatic dispute, the governance of Kosovo has become uncertain and complex. The political tensions and lack of stability in the region exacerbate these challenges, as a result making it more difficult to promote gender equality and women's empowerment.

International presence has profoundly impacted the building of legal institutions since the post-war era. In addition, a number of organizations and NGOs were assisted by UN Women in Kosovo to combat gender inequality.¹⁴ In the meantime, fundings from the international community for civil society in Kosovo increased dramatically, intending to support the NGO

10. United Nations resolution 1244, June 10, 1999, https://unmik.unmissions.org/sites/default/files/old_dnn/Res1244ENG.pdf.

11. Julie Kim and Steven Woehrel, "Kosovo and U.S Policy: Background to Independence," CRS Report for Congress, June 20, 2008, pg.19, <https://sgp.fas.org/crs/row/RL31053.pdf>.

12. "List of Acknowledgement," Ministry of Foreign Affair and Diaspora, accessed June 3, 2023. <https://mfa-ks.net/lista-e-njohjeve/>

13. Matt Robinson, "Mediators Display US-Russia Division on Kosovo," Reuters, December 3, 2007, <https://www.reuters.com/article/idUSL03139422>.

14. UN Women, "Peace and Security and Engendering Humanitarian Action," UN Women – Europe and Central Asia, accessed May 13, 2023, <https://eca.unwomen.org/en/where-we-are/kosovo-under-unscr-1244/peace-and-security-and-engendering-humanitarian-action>.

sector and promote constructive social change.¹⁵ As a result, numerous funds supported initiatives tackling issues like gender-based violence, sexual violence, discrimination against women and the underrepresentation of women in decision-making in Kosovo.¹⁶

However, religion, traditions, and customs among other factors, continue to influence social and cultural norms in Kosovo, including gender roles and societal expectations. The international influence can also be seen as a threat to established social and cultural norms, including gender expectations, leading to a cultural backlash within the Kosovar Albanian community. Feminist movements in Kosovo often emphasize the importance of claiming inheritance as a means to assert independence, empowerment, and women's agency. In reality, though, many women desire to live in a society that values them for their individual aspirations and allows them to make their own decisions. Through interviews with women, we will discover that they are aware of their legal rights regarding inheritance but choose not to claim their inheritance for various personal reasons, which will be explored in the chapter presenting the empirical findings. While feminism is gaining momentum in Kosovo, it does not necessarily represent the views and experiences of all women living in the country. Women in Kosovo strive to assert their position within the family and their relationships with male relatives because family dignity and loyalty are deeply ingrained values in their culture. They take pride in upholding these values as they are representative of the cultural fabric in which they grew up. Many initiatives undertaken by the international community in Kosovo may lack a full understanding of women's experiences and desires regarding inheritance.

15. Driton Zeqiri, "Kosovo's civil society is a product of its post-war roots," *Kosovo 2.0*, December 14, 2016, <https://kosovotwopointzero.com/en/kosovos-civil-society-product-post-war-roots/>.

16. "Kosovo," UN Women – Europe and Central Asia, accessed March 5, 2023, <https://eca.unwomen.org/en/what-we-do/national-planning-and-budgeting/transformational-financing-for-gender-equality-in-the-western-balkans/kosovo>.

Culture, Human Rights and Women's Inheritance Rights in Kosovo

Culture is not monolithic; and culture is not static. While some cultural practices may be harmful to human rights, it is important to recognize that culture is not fixed. Cultural practices change over time and there is often diversity within cultures themselves, which is the case in Kosovo. In Kosovo, culture is often used to justify human rights abuses, including those related to women's rights. Patriarchal attitudes and traditional practices that discriminate against women are part of the culture of the region. As a result, many women are denied their human rights, including their right to inherit property.¹⁷ Data shows that only 17% of women in Kosovo own property, while only 7% of women inherit property.¹⁸ For instance, last year, following the passing of renowned businessman Latif Kryeziu who had three children: two sons and a daughter, the daughter faced significant challenges in claiming her rightful share of inheritance.¹⁹ The daughter, unfairly excluded from her rightful share of the inheritance, decided to challenge her brothers' actions through a court appeal. She revealed that one of her brothers not only deprived her of her rightful inheritance but also explicitly stated that he told her that "You don't deserve any share, nor what you want, because you are a woman." She also disclosed that she had been subjected to physical violence by her brother due to her unwavering stance in demanding her rightful place within the inheritance. The case is still open.

17. Antigone Isufi, "Kosovo Women Still Struggling to Win Property Rights," Balkan Insight, March 9, 2023, <https://balkaninsight.com/2023/03/09/kosovo-women-still-struggling-to-win-property-rights/#:~:text=Women%20in%20Kosovo%20continue%20to,create%20obstacles%20for%20women%20entrepreneurs>.

18. "Eulex Press Releases," EULEX European Union Rule of Law Mission in Kosovo, accessed May 15, 2023, <https://www.eulexkosovo.eu/?page=2%2C10%2C2491#:~:text=The%20facts%20and%20statistics%20speak,of%20property%20is%20thus%20exacerbated>.

19. "Barazia e grave në trashëgimi, veç në këtra" [Gender Equality in Inheritance, but Only on Paper], Bota Sot, accessed June 13, 2023, <https://www.botasot.info/aktuale-lajme/560880/barazia-e-grave-ne-trashegimi-vec-ne-ketra/>.

Advocates in Kosovo challenge the status quo by advocating for women's rights.²⁰ However, they might lack the understanding that the struggle for gender equality should not be a rejection of culture but rather an effort to reshape cultural practices in ways that respect and elevate all women's rights based on their experiences and desires. Balkan Investigative Reporting Network (BIRN) supported by United States Agency for International Development (USAID) conducted a comprehensive study on the rights of Kosovo women regarding property inheritance.²¹ Their research delved into both the legal framework and the customs that shape inheritance practices in the region. While the study provided valuable insights into women's inheritance rights, it is worth exploring and expanding upon the implications of their recommendations. One of the primary recommendations put forth by BIRN focuses on the "emancipation of society." They suggest that fostering positive examples of women who exercise their inheritance rights and possess public influence can contribute to this societal emancipation.²² While the recommendation I assume was made with good intentions, disproportionately highlighting inheritance rights as the primary indicator of women's emancipation, there is a risk of undermining the broader struggles women face in their quest for equality. Such a narrow focus may inadvertently reinforce stereotypes that tie women's worth primarily to their economic contributions or assets, ignoring their agency, autonomy, and overall well-being.

In this thesis, I propose an intersectional feminist approach that expands beyond a narrow understanding of women's agency based solely on universal human rights discourse. Instead of demonizing cultural practices, it is imperative for universal human rights to embrace and accommodate the unique cultural context of Kosovo. I aim to shed light on the fact that the

20. Republic of Kosovo / Agency of Gender Equality, Monitoring, and evaluation report on the achievement of the objectives for the indicator and the implementation of the activities of KPGE Action Plan 2020 – 2022, February 2023.

21. Rron Gjinojci, "Kosovo Women's right to inherit property," Balkan Investigative Reporting Network, July 2016, pg. 9-11,

22. Ibid, 21.

emancipation and empowerment of women cannot be defined solely by standards that do not fit Kosovar society. While recognizing the value of human rights, this project questions their sufficiency when they are imposed upon individuals and communities. I emphasize the need to consider the social and cultural factors that shape the perception and exercise of women's agency within inheritance practices, transcending a one-size-fits-all approach to gender equality. Guided by a feminist critical viewpoint, which underscores the need for an inclusive and intersectional approach that respects and amplifies women's agency within their cultural contexts, I engage with the question of how to strike a balance between promoting gender equality and preserving cultural autonomy and women's agency. Additionally, I draw upon the insightful fishbowl metaphor proposed by Ratna Kapur,²³ which highlights that individuals and groups have different levels of access to human rights protections and benefits, influenced by the limitations and constraints imposed by their cultural contexts. By employing this metaphor, the aim is to uncover the nuanced realities of women's experiences, challenges, and opportunities within the intricate web of inheritance practices.

In this regard, Sally Engle Merry discusses the tensions between human rights law and cultural practices. She argues that while cultural diversity should be respected it should not be used to justify human rights abuses or discrimination.²⁴ This supports the notion that human rights should evolve in line with cultural practices to ensure that women's agency is not predefined on universal human rights discourse. The notion of gender equality has been significantly impacted by conventions ensuring gender equality by promoting and protecting women's rights, but these conventions have not been implemented in many countries, one of the reasons being the difficulty of translating universal ideas into local contexts. Merry argues

23. Ratna, Kapur, *Gender, Alterity and Human Rights: Freedom in a Fishbowl*, (Northampton, MA: Edward Elgar Publishing, 2018).

24. Merry, Sally Engle. "Human Rights Law and the Demonization of Culture (And Anthropology Along the Way)." *Political and Legal Anthropology Review* 26, no. 1 (2003): 57.
<http://www.jstor.org/stable/24498082>.

that human rights discourse has increasingly portrayed cultural practices as obstacles to the realization of universal human rights, leading to the demonization of culture. This demonization of culture, she argues, is problematic because it simplified and essentialized cultural practices, disregarding their complexity and diversity.²⁵ It also ignores the agency and creativity of individuals within cultural groups, who may resist or adopt cultural practices in several ways.

Raffia Zakaria, an attorney and feminist, delves into the concept of white feminism and its implications within the broader feminist movement.²⁶ She argues that being a white feminist is not limited to individuals of a specific racial background but rather refers to a set of assumptions and behaviors that have become ingrained in mainstream Western feminism.²⁷ She questions the uncritical adoption of "white" solutions to the challenges faced by non-white women, emphasizing the significance of addressing patriarchal structures within each cultural context.²⁸

Following the Kosovo War, the presence of international community, primarily the United States and Western Europe, has become pervasive across many parts of Kosovar society. The United States, in particular, played a major role in securing Kosovo's independence, which led to the internalization of American exceptionalism within Kosovo.²⁹ The concept of American exceptionalism, referring to the belief in the superiority and unique qualities of the United States, has been internalized by Kosovo as a result of the country's close association with the United States.³⁰ This internalization allows the United States to exercise its hegemonic power over Kosovo, shaping its political, social, and economic landscape.

25. Sally Engel, 68.

26. Rafia Zakaria, *Against White Feminism: Notes on Disruption*. (New York: W W Norton, 2022).

27. Zakaria 2022, 11.

28. Ibid, 68.

29. Alicia Strong, "Sorta, Kinda Muslim: The Impact of Western Hegemony on Muslim Identity Negotiation in Kosovo" (Thesis, Wesleyan University, 2018), 41.

30. Strong 2018, 42.

Similarly, Western Europe asserts its hegemony in Kosovo through the politics of the European Union. The prospect of Kosovo's accession into the EU is seen as a pathway to visa liberalization and increased economic stability for the country.³¹ This prospect strengthens the influence of Western European countries in Kosovo, as the promise of EU accession becomes a driving force for aligning with European norms and values.³² This presence and influence shape various aspects of Kosovar society, including politics, economy, and cultural perceptions.

Mutua examines the way in which the discourse on human rights is shaped by the use of metaphor, specifically the metaphor of savages, victims and saviors. He argues that this metaphor has been used to justify Western interventions in non-Western countries, portraying non-Western societies as savage and uncivilized and Western powers as the saviors who must intervene to protect the victims.³³ Mutua contends that this discourse is problematic because it ignores the historical and social contexts in which human rights violations occur, and instead reduces complex issues to simplistic narrative of victimization and salvation. He suggests that this metaphor perpetuates the notion that the West has a moral obligation to intervene in non-Western societies, which can result in the imposition of Western values and norms on these societies.³⁴

However, Merry argues that human rights law can be a valuable tool for protecting individuals from harm caused by cultural practices. On the other hand, Merry stresses that

31. Strong 2018, 42.

32. "An Overview of Relations between the EU and Kosovo," EEAS, accessed June 15, 2023, https://www.eeas.europa.eu/kosovo/eu-and-kosovo_en?s=321#10923.

33. Mutua, Makau. "Savages, Victims, and Saviors: The Metaphor of Human Rights." *Harvard International Law Journal* 42, no. 1 (2001):m20

34. Makua, 210.

legal frameworks alone are not sufficient to change cultural norms and practices, and that social and cultural change is often necessary to ensure that human rights are respected.³⁵

Once in Kosovo, I had the opportunity to witness the division of inheritance among three brothers. In Kosovo, the tradition dictates that the inheritance is first divided within the family home, and then the legal aspects are settled afterward. This ceremony, which combines happiness and sadness, holds great significance. These brothers, who had shared their childhood and built their own families together, in one home. The division of inheritance in this context becomes a profound ceremony. As there were no sisters, only the brothers and their father were present. Each brother had a son, and the intention was to distribute the inheritance equally among the three. It was irrelevant who had contributed more financially within the family, as the focus was on maintaining equality. In Kosovo, as in many other societies, the family holds significant influence over various aspects of individuals' lives, including decisions related to inheritance and wealth transfer. In Kosovo women often prioritize the protection of familial property and the preservation of ancestral heritage. Women may internalize these values and view themselves as guardians of their natal family's wealth, perceiving the transfer of assets to their husbands as a dilution of their family's legacy. As a result, they may choose to forgo bringing their natal family wealth to their husbands.

In the aftermath of the war, remittances emerged as a lifeline for many Kosovo families, constituting a substantial portion of the country's economy. Remittances constitute the largest financial inflow in the economy of Kosovo, representing around 18 percent of Kosovo's GDP in 2021.³⁶ These financial contributions from diaspora, often sent from countries like

35. Sally Engel, 68-71.

36. United Nation Development Programme, Kosovo Diaspora and its Role Amidst Multiple Crises, (Germin) March 2023, <https://www.undp.org/kosovo/publications/kosovo-diaspora-and-its-role-amidst-multiple-crises>.

Switzerland, Germany, or Austria, provide essential support to individuals and households. In Kosovo, the aspiration for equal resources among siblings holds great significance. The practice of receiving remittances has become deeply ingrained in the societal fabric of Kosovo, reflecting a cultural norm that emphasizes solidarity and equal resource distribution among siblings. Consequently, the decision to forego inheritance rights is not solely driven by gender dynamics but is also influenced by economic circumstances, which among one of reasons why women choose to forfeit their inheritance rights if they perceive themselves to be in a better financial position. This decision is guided by a belief in the importance of maintaining equal resources and fostering familial solidarity, even if it means relinquishing individual inheritance claims.

In the case of women's inheritance rights in Kosovo, it is important to acknowledge the historical and social factors that shape the current state of affairs. Kosovo's cultural norms, patriarchal traditions, and socio-economic conditions contribute to the challenges faced by women in claiming their rightful share of inheritance. Simply framing the issue as a victim-savior narrative oversimplifies the complexities and fails to address the underlying systemic factors that perpetuate gender inequality in inheritance practices. Mutua further argues that the metaphor of savages, victims and saviors is challenging because it perpetuates a dichotomy between the civilized West and the uncivilized non-West, which ignores the fact that human rights violations occur in Western societies as well.³⁷ It is critical to avoid assuming a universal model of gender equality based solely on Western standards in the context of Kosovo. Instead, it is necessary to engage with local cultural and social dynamics while respecting society's autonomy in shaping its own norms and practices. Recognizing Kosovo's distinct historical and cultural context is critical for developing solutions that are in line with the aspirations and needs of its people, particularly women.

37. Makua, 210.

To illustrate the role of human rights in international politics and social movements, I will focus on Ratna Kapur's metaphor³⁸, which is the fishbowl and the rope/snake metaphor, which serve as a framework for her critique of mainstream human rights advocacy and scholarship. It emphasizes self-scrutiny and alternate epistemologies for freedom. She argues that the dominant understanding of human rights is limited by narrow conception of the "human" that excludes certain groups of people, particularly those who are marginalized on the basis of their gender, sexuality, race and other forms of identity. Kapur suggests that the fishbowl metaphor can help us to understand how different groups experience human rights differently. Just as a different fish in a fishbowl have different amounts of space and resources, individuals and groups have diverse levels of access to human rights protections and benefits. Some groups may have larger fishbowl and more access to human rights protections, while other may have smaller fishbowls and face greatest obstacles to realizing their rights, similar to how a rope might deceitfully appear to be a snake.³⁹

Kapur argues that the unequal distribution of human rights is a result of the dominant understanding of the "human" as a white, male, heterosexual, able-bodied individual. Other groups are seen as deviating from this norm and are therefore excluded from full human rights protections.⁴⁰ The fishbowl metaphor helps to illustrate this exclusion, as individuals and groups are constrained by the limitation of their fishbowl and prevented from accessing the full range of human rights protections and benefits.

Women often find themselves navigating three distinct fishbowls that shape their experiences with inheritance. Firstly, there are those who desire to claim their rightful inheritance but face resistance from male relatives who prioritize their own economic gain. Within this fishbowl,

38. Ratna, Kapur, *Gender, Alterity and Human Rights: Freedom in a Fishbowl*, (Northampton, MA: Edward Elgar Publishing, 2018).

39. Ibid 10.

40. Ibid.

the patriarchal dynamics and traditional gender roles prevalent in Kosovo society contribute to this resistance, where male family members aim to maintain control over family wealth and resources, as was the case illustrated above.⁴¹

Secondly, there are women who assert their inheritance claims, only to face estrangement and strained relationships with their brothers as a result. When claiming their rightful share, women challenge the traditional distribution of inheritance, which often favors male family members. This assertion can disrupt familial harmony and lead to estrangement, as brothers may perceive it as a threat to their economic status or question the cultural norms and expectations surrounding inheritance practices.

Lastly, it is important to acknowledge that some women, who consciously choose not to claim their inheritance, face unjust labeling as "irrational." This judgment primarily stems from individuals who perceive themselves as "progressive" and argue that deviating from claiming the legally rightful share goes against Kosovo's longstanding aspirations. These voices often emphasize the need to abandon cultural norms and conform to international community expectations in order to pave the path towards European Union "integration". Such voices place pressure on women to abandon cultural norms and conform to external standards, disregarding their personal choices and autonomy.

41. "Barazia e grave në trashëgimi, veç në këtra" [Gender Equality in Inheritance, but Only on Paper], Bota Sot, accessed June 13, 2023, <https://www.botasot.info/aktuale-lajme/560880/barazia-e-grave-ne-trashegimi-vec-ne-ketra/>.

Objective and research interest

This research endeavors to develop a comprehensive understanding of the motivations that drive women's decisions to assert or forgo their inheritance rights, through semi-structured interviews with women from different backgrounds. Specifically, it explores the intricate interplay of cultural and social influences that shape these decisions within the context of Kosovo.

Research aim

This thesis looks into the complex interplay of culture, tradition, and legal frameworks in shaping women's inheritance rights and their motivation to claim or not claim inheritance.

By conducting this research, I attempted to identify positions, barriers, challenges, and difficulties that shape the realization of inheritance rights. For this purpose, this project analyzes the traditional norms practices and their impact on the welfare of women with regard to their inheritance rights.

By comprehensively investigating the cultural and social factors that shape women's decisions regarding inheritance rights in Kosovo, my project endeavors to contribute to a deeper understanding of the complexities surrounding this issue. It aims to illuminate the dynamic interplay of legal, customary, and religious dimensions, providing valuable insights for addressing gender disparities and promoting equitable inheritance practices.

Methodology and fieldwork

This thesis uses both primary and secondary data sources. The collection of secondary data involves reviewing relevant literature, consulting databases, and utilizing internet sources to gather comprehensive information on the topic. The primary focus of this research lies in the collection of qualitative data through semi-structured interviews with Kosovo-Albanian women. Semi-structured interviews are chosen as the preferred research method due to their ability to elicit detailed and open-ended responses from the participants.⁴²

Prior to conducting the interviews, a set of sample questions was prepared to guide the discussions. The interviewees include both women who have claimed their inheritance and those who have chosen not to, providing valuable insights into their experiences, perceptions of property rights, and motivations behind their decisions. In addition to exploring substantive questions related to inheritance rights, the interviews also gather demographic data such as age range, residency (urban or rural), level of education, and occupation. These details will aid in examining how individual identities may influence decision-making processes. A total of six in-person interviews were conducted in Kosovo, in Albanian language, the native language of the participants. To facilitate the interview process with ease the interview questions were tested with two individuals prior to the interviews. The process of participant selection was done through my personal contacts and was carried out in two stages. Initially, eight women were contacted via telephone in January 2023, where I introduce them to the purpose and scope of the thesis. In March 2023, I contacted all of them and six of them were ready to participate in the interviews. During these meetings, the research objectives were further explained, ensuring a clear understanding of the topic.

42. Annette Lareau, *Listening to People* (The University of Chicago Press), 2021, ISBN: 9780226806600.

Together with the participants, suitable dates and locations for the interviews were scheduled based on their availability and convenience.

The interviews were audio recorded which then were transcribed, and the original recordings were deleted to maintain confidentiality and data security. Before the data analysis, I translated the transcribed interviews in English.

Data analysis was done through data coding. Through reading and coding the interview transcripts, the data were systematically organized and categorized, identifying significant patterns, recurring themes, and key concepts, applying thematic analysis by Braun and Clarke.⁴³

The coding process served as the foundation for further analysis, leading to the emergence of various themes that are comprehensively explored in Chapter 2. Ethical considerations were taken into account throughout the whole process. Informed consent was obtained from each participant, ensuring they were aware of the purpose and procedures of the research, as well as their rights as participants. Anonymity and confidentiality were maintained by assigning pseudonyms to the participants and securely storing the data.

Pseudonym	Age Range	Education Level	Occupation	Residency
Hana	40s	High School	Salesperson	Urban
Sala	50s	Elementary School	Housewife	Urban
Zana	50s	Elementary School	Housewife	Rural
Xheraldina	30s	High School	Housewife	Urban
Ema	40s	Elementary School	Self-employed cook	Rural
Besa	50s	Elementary School	Housewife	Rural

43. Braun, V. and Clarke, V. Using Thematic Analysis in Psychology. *Qualitative Research in Psychology*, 2006, 3, 77-101. <http://dx.doi.org/10.1191/1478088706qp063oa>.

Exploring the Interplay: Legal Framework

Women's rights remain one of Kosovo's most significant challenges, especially regarding inheritance rights and equal social and economic participation. The laws of Kosovo guarantee equal rights for men and women.⁴⁴ The Constitution of the Republic of Kosovo⁴⁵, which was adopted in 2008 guarantees equality before the law and prohibits discrimination based on gender, among other grounds. In addition to the constitutional provisions, Kosovo has also adopted various laws and policies aimed at promoting gender equality and combating discrimination against women. The Act on Gender Equality was adopted in 2015. Article 3(1.10), defines gender equality as the equal rights, opportunities and treatment of women and men.⁴⁶ Article 6 also provides for the establishment of institutions and mechanisms to promote and protect gender equality. It also requires public institutions to adopt gender strategies which involve integrating a gender perspective into all policies and programs, in order to ensure that the different needs and experiences of women and men are taken into account. Kosovo has also ratified relevant conventions and follows declarations on human rights aimed at promoting and combating gender equality, including the Convention on the Elimination of All Forms of Discrimination against Women⁴⁷ and the Beijing Declaration and Platform for Action⁴⁸.

CEDAW's Article 15(2)⁴⁹ states that women should have the same legal capacity as men in civil matters and equal opportunities to exercise that capacity, including the rights to conclude contracts and administer property, as well as equal treatment in courts and tribunals. Additionally, Article 16(h) emphasizes equal rights for spouses regarding property

44. Law No.2004/32, Law Family Law of Kosovo, Art.3.

45. The Constitution of Republic of Kosovo. 2008. Art 3.

46. Law No.05/L – 020, Law on Gender Equality in Kosovo, Art 3(1.10).

47. UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249.

48. United Nations, Beijing Declaration and Platform of Action, adopted at the Fourth World Conference on Women, 27 October 1995.

49. CEDAW, Art 15(2).

ownership, acquisition, management, and disposition. Meghan Campbell⁵⁰ highlights the usefulness of this equality framework in evaluating individual communications, particularly when addressing legal barriers that explicitly prohibit women from inheriting property. While CEDAW acknowledges the significance of substantive and transformative equality, there is no consensus on their precise interpretations, underscoring the ongoing debates and complexities surrounding these models of equality within the implementation of CEDAW.

In addition, there is the Family Law which aligns with the Law on Gender Equality to safeguard women's rights in various aspects of marriage and property ownership.⁵¹ It establishes joint ownership of property acquired during the marriage, and addresses property division following divorce. Another relevant law pertaining to women's property ownership in Kosovo is the Inheritance Law. When a person dies, spouses and children are constituent members of the first 'rank' of inheritors.⁵² They must receive an equal share of the estate. A spouse, on the other hand, has no claim to any family property left to the deceased spouse by his or her parents or family; that property goes to the deceased's children or siblings.⁵³

Article 130 (1) of the inheritance law⁵⁴, which grants the right to renounce inheritance, has a significant impact on women's property matters. This article states that “the heir may renounce to the inheritance by a statement made to the court, until the inheritance proceedings are completed.” Although giving up inheritance rights is a common feature of most inheritance laws, it is usually done for specific reasons, i.e., excessive taxes and maintenance costs that exceed its actual value. Renunciation of inheritance rights is frequently invoked in Kosovo, but not because of taxation or the burdensome nature of

50. Meghan Campbell, “Women’s Rights and the Convention on the Elimination of All Forms of Discrimination Against Women: Unlocking the Potential of the Optional Protocol,” *Nordic Journal of Human Rights* 34, no. 4 (2016): 247–71, <https://doi.org/10.1080/18918131.2016.1248002>.

51. Law No.2004/32, Law Family Law of Kosovo, Chapter II.

52. Law No.2004/26, Law on Inheritance in Kosovo, Article 12 (12.1).

53. Law No.2004/26, Law on Inheritance in Kosovo, Article 15 (15.1).

54. Ibid, Article 130 (1).

specific properties. Instead, female heirs use it to willingly relinquish their inheritance rights, allowing for the patrilineal transfer of family resources and increasing the portion of resources allocated to their brothers or sons.

Religion

In Kosovo, where Islam is the dominant religion, understanding the relationship between Islamic teachings and women's inheritance rights is crucial for comprehending the socio-cultural dynamics at play. Islam provides a comprehensive framework that encompasses various aspects of life, including inheritance. The Quran, considered the holy scripture in Islam, contains explicit instructions on inheritance rights for both men and women, rooted in notions of justice, fairness, and family ties.⁵⁵ However, there can be misconceptions and misinterpretations of Islamic teachings in Kosovo, which may affect women's inheritance rights. It is important to note that Islam grants women the right to inherit.⁵⁶ The Quran clearly states that female relatives, such as daughters, sisters, mothers, and wives, are entitled to a share of the deceased person's estate⁵⁷. The specific portion may vary depending on the family structure and the presence of other heirs, but the principle of women's inheritance rights is firmly established in Islamic teachings. Islam consists of two major branches: Sunni and Shia. In the context of Kosovo Muslims, I will focus primarily on the Sunni branch, which is the most prevalent among Kosovo Albanians. According to the judge Razak Uzun

55. Bishin, Benjamin G., and Feryal M. Cherif. "Women, Property Rights, and Islam." *Comparative Politics* 49, no. 4 (2017): 501–19. <http://www.jstor.org/stable/26330985>.

56. Shaik Razak Uz Zama, "Muslim Law of Inheritance," accessed 27 May 2023. <https://districts.ecourts.gov.in/sites/default/files/Muslim%20law%20of%20in%20Heritance-By%20Razak%20%28dated%205-1-2019%29.pdf>.

57. Ibid.

Zama, in Sunni Law⁵⁸, there are three different groups, which he refers to as class determining inheritance division.

Class I heirs, known as sharers, have fixed shares specified in the Quran. There are twelve such heirs, including eight women. They receive fractional shares of the estate. Class II heirs, called residuaries, do not have fixed shares. They inherit the remaining estate after Class I heirs receive their fixed shares. Class III heirs are other relatives who may inherit if there are no heirs from Classes I and II.⁵⁹

The scheme of succession differs depending on whether the deceased was male or female. The spouse inherits a share based on whether there are children or eligible lower descendants. The wife of a male deceased inherits either 1/4th or 1/8th of the estate, while the husband of a female deceased inherits either half or 1/4th. The mother inherits a share based on whether there are children or eligible lower descendants. She takes either 1/3rd or 1/6th of the estate. Grandmothers may inherit if the mother is not alive. Maternal grandmothers receive a 1/6th share, while paternal grandmothers inherit only in the absence of both parents and receive a 1/6th share. If there are multiple eligible grandmothers, they share the 1/6th portion equally. These are some of the key principles and rules that govern the inheritance system in Sunni law.⁶⁰

In Kosovo, the misinterpretation of Islamic teachings is quite common, despite the majority of the population being Muslim. This may be attributed to the limited sources of Islamic education, where individuals often rely on information solely from the Imam or personal reading. In Kosovo, religion has not been included in the school curriculum, which

58. Ibid 5.

59. Ibid 6.

60. Razak Uz Zama, 6-7.

contributes to misunderstandings and misinterpretations surrounding religious practices.⁶¹

While Kosovo may not have official data on the application of Islamic law on inheritance practices due to it not being a Muslim country legally, anecdotal evidence suggests that some families may indeed follow Islamic inheritance principles.

Social norms and customary law

The Code of Lekë Dukagjini, which in Albanian language is known as Kanun, is a set of customary laws and traditions that were developed in the 15th century in the region of northern Albania, Kosovo, and Montenegro. The code is named after Aleksander Lekë Dukagjini, a historical figure who is believed to have played a key role in the development and codification of the laws and a resistant to the Ottoman Empire.⁶² The Code of Lekë Dukagjini covers a wide range of topics, including family law, property law, criminal law, and civil law.⁶³ It provides guidance on issues such as marriage, divorce, inheritance, and property disputes, as well as outlining penalties for crimes such as theft, murder, and adultery. The code was passed down orally from generation to generation and was eventually written down in the late 19th century. It is considered an important cultural heritage of the Albanian people and is still studied and respected today.⁶⁴ It is worth noting that while the Code of

61. Bekim Bislimi, “Lënda e mësim-besimit, “për fenë” apo “mbi fenë” (The subject of teaching-belief, "about religion" or "about religion"),” April 23, 2016, <https://www.evropaelire.org/a/27692751.html>.

62. Simone Cerio Parallelzero, “Albania's Killer Code of Ethics,” Gulfnews (Gulf News, October 29, 2018), <https://gulfnews.com/general/albanias-killer-code-of-ethics-1.936067>.

63. The Code of Leke Dukagjini, Albanian Text Collected and Arranged by Shtjefën Gjeçov, translated by Leonard Fox, New York: Gjonlekaj Publishing Company, 1989.

64. Ismet Elezi, “Historical Development of the Kanun,” Kanuni i Laberise, December 16, 2022, <https://kanunilaberise.tripod.com/id12.html>.

Lekë Dukagjini is an important cultural artifact, it is not a legally recognized code in contemporary Albanian or Kosovo law.⁶⁵

The property rights disparity in Kosovo is shaped by the traditional Albanian customary law, referred to as the Code of Leke Dukagjini. These norms have been passed down through generations via an oral tradition and were established by a council of elders, reflecting patriarchal principles.⁶⁶ Under this system, property is inherited by male children and the natal family. Ownership of houses and land typically rests with the eldest male relative, and the transfer of property titles after death is often neglected. In a traditional setting, extended families commonly live together, or they live in the same yard in different houses.

The Albanian customary code not only emphasizes the avoidance of leaving property to women but considered a woman a “superfluity in the household,” which states.

“Albanian women are not allowed to inherit property from their fathers because the Kanun considers a woman a superfluity in the household. Her parents are not concerned about their daughter's trousseau or anything else; the man who has become engaged must take care of such matters.”⁶⁷

While certain Kosovar families continue to hold onto these traditional norms, a gradual transformation is taking place as people increasingly diverge from these beliefs. This shift is particularly notable in terms of valuing women and recognizing their autonomy to make their own decisions.

This Code is considered both a manifestation of nationalist identity and a reflection of cultural norms intertwined with the nationalism that emerged during Kosovo's struggle for

65. Tanya Mangalakova, “The Kanun in present day Albania, Kosovo and Montenegro,” International Centre for Minority Studies and Intercultural Relations, 2004, p.2.

<https://core.ac.uk/download/pdf/11870995.pdf>

66. Ibid.

67. The Code of Leke Dukagjini, Article 7.

independence from Serbia.⁶⁸ The dissolution of the former Yugoslavia and the marginalization of the Albanian population from government employment and education further reinforced traditionalism, reinforcing patriarchal structures. During this period, cultural norms, including gender roles, were strengthened, and the significance of Albanian customary law in conflict resolution increased.⁶⁹ Women who challenged these norms faced criticism for undermining the Albanian national struggle. The resurgence of cultural traditions and gender roles in the 1990s served as both a political statement against the Serbian state and an economic necessity due to limited opportunities outside traditional sectors. While Kosovo's independence is slowly eliminating the need for such a resurgence, these cultural traditions persist in regulating family and economic life.⁷⁰ Despite the fact that most of the provisions in the code are discriminatory from a contemporary human rights perspective, the code remains an important part of the cultural heritage and identity of the region. The Code of Leke Dukagjini is viewed by many in Kosovo and Albania as a symbol of their cultural and historical identity. It is often seen as a way to preserve the cultural traditions and practices of the region and to maintain a connection to the past.⁷¹ This duality presents a complex challenge in balancing the preservation of cultural traditions and the pursuit of gender equality.

The interplay between the legal framework, religious teachings and social norms in Kosovo shapes the landscape surrounding inheritance practices. In the following sections, the findings of this research will delve into the experiences and motivations of women in relation to inheritance practices.

68. Sandra, Joireman, “*Resigning Their Rights? Impediments to Women’s Property Ownership in Kosovo*,” 2015, Political Science Faculty Publications 44, pg.11.

69. Ibid, 11.

70. Ibid, 12.

71. Mangalakova, 3.

Unveiling perspectives; Inheritance and Women's Agency

This thesis examines how and what influences Kosovo Albanian women's decision regarding the inheritance claim. The data revealed that the participants in the study fell into two categories: those who chose to claim their inheritance and those who decided to forgo their rights to it. As surrendering the inheritance was far more prevalent than claiming it, a significant portion of this paper was devoted to exploring the reasons behind this trend. During the data collection process, it became evident that women have different experiences and motivations when it comes to claiming or not claiming inheritance. However, it was also observed that some women were compelled to surrender their inheritance due to external pressures or coercive circumstances. While the responses exhibited considerable diversity, there were notable similarities in certain aspects of their answers. The range of perspectives provided valuable insights into the complex dynamics surrounding inheritance rights, highlighting the multifaceted nature of this issue. In addition to the aforementioned findings, the study also revealed the influence of socio-cultural factors on Kosovo Albanian women's decisions regarding inheritance claims. Cultural norms, traditions, and societal expectations played a significant role in shaping their attitudes and choices. In the following I will present different themes that emerged from the data analysis.

Awareness of legal rights

All the respondents exhibited a profound comprehension of their legal entitlements when it came to inheritance. They possessed a comprehensive understanding of the laws and regulations pertaining to inheritance rights. Despite this awareness, an intriguing pattern emerged, revealing that women generally refrained from discussing the topic of inheritance within their social circles. Interestingly, the research uncovered that television played a significant role in shaping their knowledge and perception of inheritance rights. Two of the respondents specifically mentioned television as a valuable platform through which they gained insights and learned more about their rights in matters of inheritance. It appeared that television programs, documentaries, or discussions on legal matters provided them with valuable information that influenced their decisions regarding the exercise or non-exercise of their inheritance rights. This finding highlights the importance of media in providing women with the necessary knowledge to make informed choices about their inheritance. By becoming informed through television programs, these women were able to evaluate their options and make decisions that aligned with their personal circumstances, values, and aspirations. This underscores the role of media in empowering women and equipping them with the necessary information to navigate complex legal matters such as inheritance.

Motivations for Exercising the Right to Inherit

The data showed that women usually claim or would claim inheritance as an emotional connection to keep from their deceased father. They usually relate inheritance more of a precious thing that should be kept in the family, therefore some of the respondents even mentioned that they would love to get a small part of inheritance not equal to their brothers, but just a small portion which would make them feel empowered and independent as women. Xheraldina for instance, expressed her perspective by stating:

‘Yes, I would want to be part of the family inheritance, I don’t want to receive the inheritance equally as my brothers, but I would be happy to take a small part as a memory of my father, even if that would have been just an amount of money.’

Reasons for not exercising the right to inherit

Through my fieldwork, I uncovered various socio-economic factors that played a role in shaping women's decisions about their inheritance. These factors encompassed the strong emotional connections women shared with their brothers, their hesitation to transfer inherited property from their natal family to their husband's family, their financial stability resulting from being well-off or being provided for by their husbands and their inheritance, as well as the apprehension of being excluded from their natal family and the cultural taboo surrounding claiming inheritance.

Emotional attachment with brothers - a social security net: The findings revealed that the primary process shows that women ingrain within them an overwhelming emotional

attachment to their brothers. From an early age, girls are taught to believe that their brothers hold a superior position because they can provide them with unparalleled security. They are also informed that brothers are destined to be the rightful heirs to the family's possessions. As Ema also says, "I did not want to take any part in the inheritance because I was scared that my brothers would probably encounter any conflict with each other, or that this would hurt their feelings and I would not be welcomed to go again to stay there."

Consequently, in order to maintain a harmonious relationship with their natal family, some women are encouraged not to defy these norms and instead strive to maintain a cordial bond with their brothers. The results further highlighted that many women willingly relinquish their inheritance, seeking social security from their brothers. It was observed that this trend of surrendering property in favor of brothers was prevalent among women from all age ranges.

Hesitation to transfer inherited property from their natal family to their husband's family: In

the context of Kosovo, where it is common for women to move in with their husband and his family after marriage, the decision not to claim inheritance can be influenced by concerns about the potential exploitation of their natal family's wealth by the husband's family. This dynamic is rooted in the understanding that after marriage, a woman's financial resources, including any inherited property or assets, become part of her husband's family's collective wealth. When a woman chooses not to assert her inheritance rights, it may be driven by a desire to protect her natal family's resources from being absorbed into her husband's family's assets. This decision reflects an awareness of the power dynamics that can arise within extended families and the potential for economic exploitation. By forgoing her inheritance, a woman may be attempting to maintain a degree of autonomy and preserve her natal family's financial security, as well as protect them from any potential misuse or control by her

husband's family. This mindset can manifest in various ways. For instance, a woman may decline certain privileges or material possessions offered by her natal family, Xheraldina revealed that when she got married she refused to accept a car which was offered as a gift from her father, by doing so she aims to prevent her husband's family from exerting control over those assets or benefiting from them. These considerations are deeply rooted in the cultural context of Kosovo, where the intertwining of family ties, social obligations, and economic dynamics plays a significant role in shaping women's decisions. It is important to understand that this choice is not necessarily driven by external pressure but rather emerges from a complex web of familial relationships, social expectations, and the preservation of natal family wealth.

Financial Stability: According to Hana's account, her sister made a conscious decision to forego her right to inheritance, driven by the fact that she was already in a financially secure position. It is not uncommon for women to relinquish their inheritance when they find themselves in a more favorable economic situation compared to their siblings. In such cases, women may choose to forgo their inheritance out of a sense of fairness or to support their siblings who may be in greater need. This decision reflects a complex interplay of factors, including financial stability, family dynamics, and personal values. When a woman is financially well-off, she may perceive her siblings as being in greater need of the inherited resources. In this context, her decision to relinquish her inheritance can be seen as an act of solidarity and support for her family members. It demonstrates a sense of empathy and a desire to ensure that resources are distributed in a way that addresses the most pressing needs within the family.

In addition to the factors previously mentioned, another significant reason why women may choose to forgo their right to inheritance is the apprehension of being excluded from their natal family, coupled with the cultural taboo surrounding the act of claiming inheritance. In

many societies, including Kosovo, the natal family holds great importance in a woman's life. It is often the primary source of emotional support, belonging, and identity. Women may have deep emotional connections and bonds with their natal family members, particularly their parents and siblings. When a woman claims her rightful inheritance, it can sometimes create tension within the natal family. The fear of being excluded or experiencing strained relationships due to asserting inheritance rights can lead women to voluntarily relinquish their claims. This apprehension arises from the desire to maintain harmonious family dynamics and avoid potential conflicts or estrangement. The cultural taboo surrounding claiming inheritance often places a burden on women to prioritize the perceived harmony and well-being of their natal family over their individual rights and entitlements. It perpetuates a narrative that portrays women's active participation in inheritance matters as disruptive or disrespectful to familial norms and values.

Shattered Trust and Betrayal – Family inheritance dynamic

As Merry highlights, it is crucial to recognize that legal frameworks alone may not be enough to bring about a transformation in cultural norms and practices. Achieving respect for human rights necessitates broader social and cultural changes.⁷² In the context of inheritance, the influence of cultural norms on women's decision-making processes is significant. In Kosovar society, patriarchal values persist, where men are favored in various aspects.

Disparities against women asserting their inheritance rights in Kosovo is deeply rooted in the intersection of economic motivations and the perpetuation of male power dynamics. However, the challenges women face extend beyond legal frameworks, as societal expectations and familial dynamics can clash with the established inheritance laws. Sala, one of the respondents, shares her experience, highlighting the traumatic nature of her family's inheritance division and the profound sense of betrayal she felt. Sala's ordeal unfolded when her brother deceived her into signing away her entire share of the inheritance for his own financial gain. At a vulnerable moment, dealing with multiple health problems and lacking sufficient financial resources, Sala found herself manipulated by her brothers, who took advantage of the absence of their late father. This act of betrayal shattered Sala's trust and left her feeling emotionally wounded. It exacerbated the impact of her existing health issues, compounding her distress. For Sala, inheritance represents more than a mere division of assets; it symbolizes a connection to her father's land, where she had labored alongside him throughout her life.

“Unlike my brother, whose intent is to sell it and buy a flat for his son or go on a fancy holiday. I would have never done that, the only reason I would have sold this land

72. Engel Sally, 68-71.

would have been a critical situation like my tumor diagnosis, for instance. This land meant so much to my father, therefore it means so much to me.”

The land holds immense sentimental value, as it serves as a testament to her father's legacy, and thus carries profound meaning for Sala. The betrayal by her brothers had a profound impact on Sala's sense of empowerment as a woman. She recalls that as long as her name remained associated with the inheritance, she experienced emotional empowerment, even if she did not directly benefit from it.

“For as long as my name was in that inheritance, I felt empowered emotionally, although I never really profited anything from it. It feels like they just erased me from this family or as if I never existed. I even went to my father's grave later that day, and I told him that from now on, your four daughters are "dead", you never had daughters apparently, you only had two sons.”

Sala's story sheds light on the complex interplay between gender, inheritance, and familial dynamics in Kosovo. It reveals the challenges faced by women in asserting their rights, the emotional toll of betrayals within families, and the enduring significance of land and heritage.

Her experience serves as a powerful reminder of the ongoing struggles for gender equality and the need to address the underlying social, cultural, and familial factors that perpetuate discrimination against women in matters of inheritance. To promote gender equality and empower women in matters of inheritance, it becomes essential to challenge the prevailing patriarchal norms that undermine their rights. This entails addressing the economic disparities and power imbalances that perpetuate discrimination. It is crucial to promote a transformation in societal attitudes and dismantle patriarchal structures to facilitate women in asserting their rightful entitlement to inheritance and exercising their agency.

Gift as an alternative to inheritance

Despite the social inappropriateness associated with claiming inheritance, there are several reasons, as mentioned earlier, why women choose not to do so. However, for those who desired to claim their rightful share but felt embarrassed to do so, they discovered loopholes in the societal discourse surrounding inheritance and utilized the concept of a "gift" as a means to navigate around the challenging conversations about equality with men. Hana, one of the respondents, shared her experience as a young girl working in the family business alongside her brother and sister. When her brother decided to withdraw from the business, she was confronted with the question of whether she could take on the role of the family heir to continue running this long-standing traditional business. Instead of directly expressing her capabilities to her father, she approached him with the proposition of renting the place and continuing the business with her sister. She felt hesitant to openly communicate her readiness to lead the business due to the prevailing societal expectations. However, after some time, she mustered the courage to confront her father and claim her rightful inheritance. In this situation, her brother was uncertain about whether she considered the inheritance fair. Hana elaborated on the matter, explaining that her father avoided even mentioning the word "inheritance," considering the societal context in which they lived, instead he called her share "a gift."

Hana's story illuminates the intricate web of societal expectations and gender dynamics that surround the topic of inheritance. It showcases the ingenuity with which women navigate these complexities, utilizing language and alternative avenues such as the concept of a "gift" to assert their rights while simultaneously managing societal perceptions. The journey towards claiming inheritance is often not a straightforward one, but rather a delicate dance between tradition, societal norms, and the desire for equality.

Contrastingly, Besa, who had always been opposed to claiming inheritance, found herself in a situation where her economic circumstances led her brother to gift her a piece of land after he had inherited it from their father. She explains that.

“Although I was given this piece of land, I still have the same rights, I go stay and sleep there, it's not that the relationship with my brother has changed, on the contrary, the relationship has strengthened more, and we are even closer to each other. Well, our relationship cannot change, because I did not ask for inheritance, he just gave me a gift.”

Besa's story unveils a nuanced perspective on inheritance and the impact it can have on familial relationships. It challenges the conventional notion that claiming inheritance inevitably leads to conflict or disruption within a family. In this instance, the act of gifting not only affirmed the strength of their relationship but also brought them closer together, fostering an even deeper connection rooted in mutual support and care.

Strong desire that young women or their daughters claim inheritance

The insightful data obtained from the respondents' sheds light on a prevailing consensus among them regarding the importance of young girls or daughters claiming their rightful inheritance. Their perspective stems from an acute awareness of the shifting social landscape in Kosovo. As they observe the changing dynamics within society, they express concerns about the diminishing support that brothers traditionally extended to their sisters. Additionally, they note a growing trend toward individualism among people in general. In light of these societal transformations, the respondents firmly advocate for young women to

assert their inheritance rights. The respondents' collective opinion underscores their recognition of the evolving nature of social life in Kosovo. They keenly observe that the traditional roles and expectations placed on brothers to provide support and security to their sisters are waning. This changing dynamic within sibling relationships has prompted the respondents to encourage young women to proactively claim their inheritance. They emphasize that in this evolving social landscape, it has become essential for young women to secure their own financial and material well-being. Furthermore, the respondents highlight the broader societal shift toward individualism. They recognize that people are increasingly prioritizing their own interests and pursuing personal fulfillment. In this context, the respondents address that young women should not rely solely on the support or benevolence of their brothers, as the changing dynamics of individualism may limit such assistance. Instead, they advocate for young women to exercise their inheritance rights, enabling them to assert their independence and autonomy. The prevailing sentiment among the respondents is rooted in a deep understanding of the evolving societal fabric and its potential implications for young women. They recognize that traditional norms and expectations are undergoing significant transformations, and as a result, young women must adapt to these changes. By claiming their inheritance, young women can secure a sense of empowerment, financial stability, and agency in shaping their own futures. This perspective highlights the importance of adaptation and self-reliance in an evolving social landscape, empowering young women to navigate the changing dynamics and shape their own destinies.

Conclusion

Through the lens of intersectional feminism, this thesis has explored the intricate and enduring dynamics surrounding women's inheritance rights in Kosovo. Drawing on the perspectives of diverse feminists and human rights scholars, the study has delved into the multifaceted nature of this issue, taking into account the intersecting factors of gender, culture, and socio-economic circumstances. Exploring the interplay between human rights, gender, culture, social norms and religion, this research has shed light on Kosovo Albanian women's motivations and practices regarding inheritance by understanding these different practices and how do they shape women's agency. My thesis challenges the essentialist assumption about women's agency, by situating women's experiences within their cultural framework.

Inheritance practices as we have seen mean and take form differently for different women. Therefore, the reasons for claiming or not claiming inheritance differ as well. The finding reveals the deep-rooted patriarchal values and societal expectations that hinder some women's ability to assert their inheritance rights. Despite legal frameworks in place, and knowledge of these legal framework of all women interviewed, women face mistreatment and are pressed by the customary norms that are so much embedded in the Kosovar society. To preserve harmonious relationships with their natal family, women may choose not to challenge these norms and instead maintain a cordial bond with their brothers, willingly relinquishing their inheritance. Due to these challenges women face, the concept of "gift" emerges as an alternative approach to inheritance, showcasing the resilience of women in claiming their rightful share while managing societal perceptions.

But on the other spectrum, women in Kosovo often willingly relinquish their right to inheritance for many different reasons. In Kosovo, women often move in with their husbands and their families after marriage, not claiming inheritance can be a way to protect their natal family's wealth from potential exploitation by the husband's family. This decision reflects an awareness of power dynamics within extended families and aims to maintain autonomy and financial security for the natal family. Financial stability also plays a role, as women already in a secure economic position may choose to forgo their inheritance to support their siblings in greater need. This decision demonstrates solidarity and empathy within the family, considering the most pressing needs of family members.

The complexity arises from the coexistence of these different influences—legal, religious, and social—in Kosovo's inheritance practices. Balancing the preservation of cultural traditions and the pursuit of gender equality poses a challenge for the society. Efforts are being made to address these issues, including the establishment of institutions and the development of gender strategies. The struggle for gender equality should not be framed as a rejection of culture, but rather as an effort to reshape cultural practices in ways that respect and elevate women's rights based on their experiences and desires. While legal frameworks and human rights discourse can play a crucial role in protecting individuals from harm caused by cultural practices, they are not sufficient on their own to bring about lasting change. Social and cultural transformation is often necessary to ensure that human rights are respected and that women's agency are valued within their cultural contexts.

Addressing the issue of women's inheritance rights in Kosovo requires a nuanced and holistic approach that considers the complexities of culture, respects women's agency, and strives for social and cultural change alongside legal protections. Therefore, human rights advocates in Kosovo challenging the status quo by advocating for women's rights should strive for an

inclusive and intersectional approach that takes into account the social and cultural factors that shape the perception and exercise of women's agency within inheritance practices.

By fostering dialogue, challenging stereotypes, and promoting inclusive practices, Kosovo can move closer to achieving gender equality and empowering all women within their cultural context. Moving forward, it is essential to continue advocating for the recognition and protection of women's inheritance rights in Kosovo. Long-term solutions must address the underlying structural and cultural factors that perpetuate gender disparities, while recognizing and respecting the diversity of cultural perspectives.

Recognizing Kosovo's distinct historical and cultural context and not imposing a universal model of gender equality based solely on Western standards. Solutions should be developed in collaboration with local communities, respecting their autonomy in shaping their own norms and practices. By doing so, we can work towards a more inclusive and equitable society in Kosovo, where women can exercise their inheritance rights and enjoy full agency and autonomy within their families and communities.

Acknowledging women's agency enables them to navigate and challenge intersecting forms of oppression and discrimination, dismantle patriarchal norms, and shape their own destinies. By valuing and supporting women's agency, Kosovo can move towards a society that embraces diversity, equity, and social justice

Bibliography

"Barazia e grave në trashëgimi, veç në këtra" [Gender Equality in Inheritance, but Only on Paper], Bota Sot, accessed June 13, 2023, <https://www.botasot.info/aktuale-lajme/560880/barazia-e-grave-ne-trashegimi-vec-ne-ketra/>.

"An Overview of Relations between the EU and Kosovo." EEAS. Accessed June 15, 2023. https://www.eeas.europa.eu/kosovo/eu-and-kosovo_en?s=321#10923.

Ardiana Gashi and Amir Haxhikadrija, "Social Impact of Emigration and Rural-Urban Migration in Central and Eastern Europe." European Commission DG Employment, Social Affairs and Inclusion, (2012), <https://ec.europa.eu/social/BlobServlet?docId=8861&langId=en>.

Bishin, Benjamin G., and Feryal M. Cherif. "Women, Property Rights, and Islam." *Comparative Politics* 49, no. 4 (2017): 501–19. <http://www.jstor.org/stable/26330985>.

Bislimi, Bekim. "Lënda e mësim-besimit, "për fenë" apo "mbi fenë" (The subject of teaching-belief, "about religion" or "about religion")," April 23, 2016, <https://www.evropaelire.org/a/27692751.html>.

Brand, Marcus. "The Development of Kosovo Institutions and the Transition of Authority from UNMIK to Local Self-Government." Cluster of Competence, The Rehabilitation of war-torn societies - A Project co-ordinated by the Centre for Applied Studies in International, Geneva, January 2003, <https://reliefweb.int/attachments/0545984d-9f5a-312b-bee9-06b935b4273f/4FA93098A07824C5C1256CC9002DE8E0-casin-kos-31jan.pdf>.

Braun, V. and Clarke, V. "Using Thematic Analysis in Psychology." *Qualitative Research in Psychology*, 2006, 3, 77-101. <http://dx.doi.org/10.1191/1478088706qp063oa>.

Campbell, Meghan. "Women's Rights and the Convention on the Elimination of All Forms of Discrimination Against Women: Unlocking the Potential of the Optional Protocol." *Nordic Journal of Human Rights* 34, no. 4 (2016): 247–71. <https://doi.org/10.1080/18918131.2016.1248002>.

Elezi, Ismet. "Historical Development of the Kanun." Kanuni i Laberise, December 16, 2022, <https://kanunilaberise.tripod.com/id12.html>.

Eulex Press Releases. EULEX European Union Rule of Law Mission in Kosovo. Accessed May 15, 2023, <https://www.eulexkosovo.eu/?page=2%2C10%2C2491#:~:text=The%20facts%20and%20statistics%20speak,of%20property%20is%20thus%20exacerbated>.

Gjinovci, Rron. "Kosovo Women's right to inherit property." Balkan Investigative Reporting Network, July 2016.

Hancock, Ange Marie. *Intersectionality: An Intellectual History*. New York: Oxford University Press, 2016.

Isufi, Antigone. "Kosovo Women Still Struggling to Win Property Rights," Balkan Insight, March 9, 2023, <https://balkaninsight.com/2023/03/09/kosovo-women-still-struggling-to-win-property-rights/#:~:text=Women%20in%20Kosovo%20continue%20to,create%20obstacles%20for%20women%20entrepreneurs.>

Joireman, Sandra. "Resigning Their Rights? Impediments to Women's Property Ownership in Kosovo." 2015, Political Science Faculty Publications 44.

Kapur, Ratna. *Gender, Alterity and Human Rights: Freedom in a Fishbowl*, (Northampton, MA: Edward Elgar Publishing, 2018).

Kim, Julie and Steven Woehrel. "Kosovo and U.S Policy: Background to Independence." CRS Report for Congress, June 20, 2008, pg.19, <https://sgp.fas.org/crs/row/RL31053.pdf>.

Kosovo," UN Women – Europe and Central Asia, accessed March 5, 2023, <https://eca.unwomen.org/en/what-we-do/national-planning-and-budgeting/transformative-financing-for-gender-equality-in-the-western-balkans/kosovo>.

Lareau, Annette. *Listening to People*. The University of Chicago Press, 2021. ISBN: 9780226806600.

Law No.05/L – 020. Law on Gender Equality in Kosovo, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10923&langid=2>.

Law No.2004/26. Law on Inheritance in Kosovo, http://old.kuvendikosoves.org/common/docs/ligjet/2004_26_en.pdf.

Law No.2004/32. Family Law of Kosovo, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2410>.

Lord Robertson of Port Ellen. "Kosovo one year on achievement and challenges." NATO, March 21, 2000, https://archives.nato.int/uploads/r/null/1/3/137989/0346_Kosovo_one_year_on-Achievement_and_Challenge_2000_ENG.pdf.

Mangalakova, Tanya. "The Kanun in present day Albania, Kosovo and Montenegro." International Centre for Minority Studies and Intercultural Relations, 2004, p.2. <https://core.ac.uk/download/pdf/11870995.pdf>.

Matt, Robinson. "Mediators Display US-Russia Division on Kosovo." Reuters, December 3, 2007, <https://www.reuters.com/article/idUSL03139422>.

Ministry of Foreign Affair and Diaspora. "List of Acknowledgement." Ministry of Foreign Affair and Diaspora accessed June 3, 2023. <https://mfa-ks.net/lista-e-njohjeve/>.

Mughal Abdul, Ghaffar. "Muslims in Kosovo: A Socio-economic and Demographic Profile: Is the Muslim Population Exploding?" *Balkan Social Science Review* 6 (2015): 155-201.

Mutua, Makau. "Savages, Victims, and Saviors: The Metaphor of Human Rights." *Harvard International Law Journal* 42, no. 1 (2001).

North Atlantic Treaty Organization. "NATO's Role in Kosovo." NATO, January 9, 2023, https://www.nato.int/cps/en/natolive/topics_48818.htm.

Razak Uz Zama, Shaik. "Muslim Law of Inheritance." Accessed 27 May 2023. <https://districts.ecourts.gov.in/sites/default/files/Muslim%20law%20of%20in%20Heritance-By%20Razak%20%28dated%205-1-2019%29.pdf>.

Republic of Kosovo / Agency of Gender Equality, Monitoring and evaluation report on the achievement of the objectives for the indicator and the implementation of the activities of KPGE Action Plan 2020 – 2022, February 2023. <https://abgj.rks-gov.net/assets/cms/uploads/files/ABGJ%20Raporti%20FINAL%20i%20monitorimit%20t%C3%AB%20zbatimit%20t%C3%AB%20PV%20t%C3%AB%2020PKBGJ%20-%20FINAL.pdf>.

Sally Engle, Merry. "Human Rights Law and the Demonization of Culture (And Anthropology Along the Way)." *Political and Legal Anthropology Review* 26, no. 1 (2003): 57. <http://www.jstor.org/stable/24498082>.

Simone Cerio Parallelzero. "Albania's Killer Code of Ethics." *Gulfnews*, October 29, 2018. <https://gulfnews.com/general/albanias-killer-code-of-ethics-1.936067>.

Strong, Alica. "Sorta, Kinda Muslim: The Impact of Western Hegemony on Muslim Identity Negotiation in Kosovo." Thesis., Wesleyan University, 2018.

The Code of Leke Dukagjini, Albanian Text Collected and Arranged by Shtjefën Gjeçov, translated by Leonard Fox, New York: Gjonlekaj Publishing Company, 1989.

The Constitution of Republic of Kosovo. 2008. https://mapl.rks-gov.net/wp-content/uploads/2017/10/1.CONSTITUTION_OF_THE_REPUBLIC_OF_KOSOVO.pdf.

Ukshini, Sylë, "Kosovo: From the Ottoman Empire through Yugoslavia to Independence," *Journal of Balkan and Black Sea Studies*, Issue 6 (June 2021): 239 – 286, ID: 0000-0002-8205-5288.

UN Women, "Peace and Security and Engendering Humanitarian Action," UN Women – Europe and Central Asia, accessed May 13, 2023, <https://eca.unwomen.org/en/where-we-are/kosovo-under-unscr-1244/peace-and-security-and-engendering-humanitarian-action>.

United Nation Development Programme, Kosovo Diaspora and its Role Amidst Multiple Crises, (Germin) March 2023, <https://www.undp.org/kosovo/publications/kosovo-diaspora-and-its-role-amidst-multiple-crises>

United Nations General Assembly. Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249.

United Nations resolution 1244, June 10, 1999, https://unmik.unmissions.org/sites/default/files/old_dnn/Res1244ENG.pdf.

United Nations, Beijing Declaration and Platform of Action, adopted at the Fourth World Conference on Women, 27 October 1995.

Von Carlowitz, Leopold. "Crossing the Boundary from the International to the Domestic Legal Realm: UNMIK Lawmaking and Property Rights in Kosovo." Vol. 10, No.3, July – September 2004, <https://www.jstor.org/stable/27800531>.

Wedgwood, Ruth. "NATO's Campaign in Yugoslavia." *The American Journal of International Law* Vol. 93, No. 4, October 1999.

Zakaria, Rafia, *Against White Feminism: Notes on Disruption*. (New York: W W Norton, 2022).

Zeqiri, Driton. "Kosovo's civil society is a product of its post-war roots," *Kosovo 2.0*, December 14, 2016, <https://kosovotwopointzero.com/en/kosovos-civil-society-product-post-war-roots/>.