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Resigning their rights?

Impediments to women's property ownership in Kosovo

Sandra F. Joireman

Introduction¹

Kosovo is one of the newest countries in the world. It achieved independence in 2008 and emerged from international supervision in 2012. As a new country, it has faced the challenge of establishing the appropriate foundations for a flourishing economy through the creation and enforcement of property rights. With the incentive of potential European Union membership in the future, Kosovo has shown significant progress in developing laws that are EU compliant. However, the enforcement of these laws often falls short. One of the areas in which there is an identifiable gap between law and practice is in the area of women's property rights.

Property rights are a particularly important microfoundation for economic growth and a vibrant economy, all the more so in post-conflict settings where violence and population displacement have interrupted normal economic activity. In Kosovo there is a dual challenge with regard to property rights as political violence occurred in the midst of a transition from communist rule, leaving a legacy of uncertain property issues that have taken the better part of the past decade to sort through, and some of which remain unresolved (Smit 2012). Key among these highly charged political issues are: the restoration of property to the Serbian minority population who lived in Kosovo prior to the war; privatization of formerly socially owned properties; legalizing the many illegally constructed buildings in Pristina; and the resolution of disputes over large government properties whose ownership is contested between Serbia and Kosovo, such as the Trepça mine. These are legally complex issues, some involving human rights concerns, in which the solutions are not always obvious nor the mechanisms in place for implementation.

Women's property ownership in Kosovo is not as legally complex, nor is the enforcement process unclear. The steps to achieving women's property rights are unambiguous. Yet there is little compliance with the law regarding women's property rights and without the enforcement of these rights there are significant barriers to women's economic activity. If women are unable to own property in their own names, it is difficult for them to start businesses, invest in property, or to use their homes as a source of capital. In Kosovo, where there are limited formal employment opportunities, impediments to women's property ownership mean a greater difficulty in the creation of self-employment. Women's engagement in the economy is a key component of economic growth and legal recognition of their property rights is a first step towards this goal (Hallward-Driemeier and Hasan 2013; Joireman 2011).

This chapter addresses the challenges of establishing clear property rights for women in Kosovo. It proceeds in three parts. The first section addresses women's property rights in Kosovo from a comparative perspective, examining the situation of women in Kosovo vis-à-vis women in other former Yugoslav republics. The second part examines why there is a gap between the egalitarian property law and unequal enforcement practices in Kosovo. The third part discusses opportunities to shift from *de jure* articulation of egalitarian property rights to the *de facto* enforcement of them. The majority of the people who suffer from the lack of enforcement of property law are women because of a resurgence in traditional patterns of social organization that accompanied the conflict with Serbia and the poor functioning of the courts. Yet men are also affected by the lack of enforcement of existing property law and this will be explicitly addressed in the analysis.

Research for this chapter was conducted over four months in 2012 and 2013 when I was living in Kosovo and conducting research on property rights. Although some secondary sources are used, most of the data for this chapter comes from 48 interviews I conducted in Kosovo during that time. Interviews on the

issues of property rights and legal processes were conducted in Pristina and four different municipalities in Kosovo: Ferizaj/Uroševac, Klinë/Klina, Gračanica/Graçanicë, and Rahovec/Orahovac. The semi-structured interviews were with legal professionals, government officials at the state and municipal levels, academics, and people working with nongovernmental and intergovernmental organizations.

Kosovo and the Western Balkans

Kosovo's independence was the last severing of territory from what used to be the state of Yugoslavia. However, unlike some of the countries that left the former Yugoslavia early (Slovenia) or peacefully (Montenegro), Kosovo's independence was the result of violence and has been contested. Factions in Kosovo began agitating for greater autonomy as early as 1981. By 1989 their efforts resulted in a strong backlash from the Serbian-controlled government, which rescinded all of Kosovo's autonomy in the areas of security, justice, defense, and planning. Removing the territory's already limited authority led to further riots and strikes by ethnic Albanians living in Kosovo. The predominantly Serbian police responded to these demonstrations violently. In April 1990, Kosovo's autonomy was officially revoked and it was ruled directly by the rump Yugoslavian state; later that year the Kosovar Assembly was formally dissolved. Between 1990 and 1999 the Albanian population protested against a school curriculum in the Serbian language, the dismissal of Albanians from government jobs, and violations of human rights. By 1998 what had been a peaceful movement for autonomy gave way to organized violence as a war for Kosovo's independence began. NATO became engaged in 1999, bombing Serbia and forcing it to abandon efforts to control Kosovo. This allowed Kosovo to establish *de facto* autonomy. While the institutions of the state were being created, Kosovo was administered by the United Nations via the United Nations Interim Administration Mission in Kosovo (UNMIK). In 2008 Kosovo declared independence, much to the opposition of the Serbian state which still does not formally recognize it. Kosovo's population is 92% ethnic Albanian; the remainder of the population is composed of Serbs, Roma, Ashkali, Egyptian, and Bosniaks.

Beginning in 2012, talks between Serbia and Kosovo regarding their economic and political interactions commenced. The talks, brokered by Catherine Ashton, the High Representative of the European Union for Foreign Affairs and Security Policy, were a result of pressure from the EU regarding the normalization of Kosovo's status as a condition for considering Serbia as a candidate state for EU accession. In April 2013, Kosovo and Serbia signed an agreement on the normalization of relations, which was an implicit recognition of the sovereignty of the state of Kosovo.

Kosovo shares a political history with its neighbors Serbia, Montenegro, and the Former Yugoslav Republic of Macedonia (hereafter Macedonia FYR), all of which were under the control of the Ottoman Empire and subsequently Yugoslav states. Kosovo also shares an anticipated political future with its neighbors. All of the Western Balkan states, including Albania, can apply for EU membership. EU membership is desirable for these countries due to the increased opportunities for economic engagement and freedom of movement for their citizens. Economically, Kosovo is the poorest country in Europe with unemployment at 35%, a GDP per capita around \$3,500, and 35% of the population in poverty (Kosovo Agency of Statistics 2013). Two-thirds of the population resides in rural areas and agriculture is the main source of employment.

Women's property rights in the former Yugoslavia

In the former Yugoslavia, equal property rights for women were established in the post-World War II era when laws on the equal inheritance of male and female children were put in place. Women were additionally afforded co-ownership of marital property. Although there had been some efforts towards increased women's rights in Yugoslavia before World War II, it was not until 1946 that gender equality was explicitly recorded in the Constitution of the Socialist Federal Republic of Yugoslavia. This victory

in women's rights was due largely to the role women played in the antifascist resistance effort (Bonfiglioli 2012). Women "questioned patriarchal laws that excluded women from land inheritance" and "voice[d] their concerns regarding women's limited legal property rights" (Daskalova 2008:190). At this point in time, private property was not as important because of the socialist state and the limited property rights to capital it supported. Unfortunately, we have no statistics from this period for the area that is now Kosovo regarding women's property ownership.

When the Yugoslav state began to crumble in the early 1990s, the new countries that were formed began the transition from socialism to capitalism. Cohen and Lampe (2011: 194) note that "...women were the biggest 'transition losers' throughout the region, suffering from a severely deteriorating economic climate and the loss of the previously substantial welfare measures provided by the various Communist regimes." That said, the successor states by and large maintained egalitarian legislation regarding property for women. This is true both with regard to inheritance law and marital property arrangements. Yet, despite a shared history of egalitarian property law with its former Yugoslavian neighbors, Kosovo has lower rates of business and property ownership for women than other former Yugoslav states. Women's economic engagement is also lower than Kosovo's near neighbors with different political histories, as shown below in Table 13.1.

Table1: Economic Engagement of Women in the Balkans

| | Percent of Firms with Female Ownership, 2009 | Percentage of Firms with Female top Manager, 2009 | Human Development Index | Gender Inequality Index |
|------------------------|--|---|-------------------------|-------------------------|
| Kosovo | 10.9 | 0.3 | unavailable | unavailable |
| Macedonia FYR | 36.4 | 19.1 | 78 | 23 |
| Montenegro | 26.0 | 24.5 | 54 | unavailable |
| Serbia | 28.8 | 15.9 | 59 | unavailable |
| Bosnia and Herzegovina | 32.8 | 13.5 | 74 | unavailable |
| Bulgaria | 33.9 | 25.8 | 55 | 40 |
| Romania | 47.9 | 24.7 | 50 | 55 |
| Hungary | 42.4 | 13.8 | 38 | 39 |
| Albania | unavailable | Unavailable | 70 | 41 |

Table 13.1 Economic engagement of women in the Balkans

Source: GenderStats, The World Bank, and UNDP

Outside of the business sector, rates of property ownership for Kosovar women are lower than those of their counterparts in other Yugoslav successor states. In Serbia, women own 37% of total real property (houses and land); in some areas, the proportion is as high as 50% (Muhamet Brajshori et al. 2012), whereas in Kosovo the percentage of property owned by women is only 8% (USAID 2013: 7). It is interesting to note that in the Albanian majority area of Serbia, the Presevo Valley, property ownership for women is also low at 13% (Muhamet Brajshori et al. 2012).

None of these inequalities can be explained by law, which under the current regimes in both Serbia and Kosovo is egalitarian. There is a puzzle here, how is it that Kosovo is so different from its neighbor states with which it has a shared history? The gap between law and practice in the Kosovar case is significant and in need of explanation.

Egalitarian law regarding property rights and inheritance

From the beginning of the legislative project to create an independent political identity and laws for Kosovo, the possibility of future EU membership has influenced the process in both direct and indirect ways. Directly, different European countries have provided advisors and consultants in a variety of areas. During the period of UNMIK administration, there were EU experts present in the assembly committees of the Provisional Institutions of Self-Government (PISG). There was also considerable EU involvement in ‘Pillar 4’ issues of reconstruction and development, such as privatization, banking, and economic development. When independence was declared in 2008, the European Union launched EULEX, the European Rule of Law Initiative, which focuses efforts on assisting Kosovo in its integration into Europe.

In addition to this direct influence, there has also been an indirect or subtle role played by the future of a Kosovar accession process to the European Union: “On a practical level, all the experience of the last 15 years indicates that it is more efficient to move in the European direction from the beginning, than to have to revise laws and restructure institutions later” (Michal Ben-Gera et al. 2005: 6). Even if it is not specifically on the agenda at any given point in time, EU membership is in the minds of government and policy-makers in Kosovo.

Andrea Spehar has studied the role of the EU in creating legislation regarding gender equality in both Croatia and Macedonia. She observes that “...the EU gender strategy in Croatia and Macedonia has

shown serious limits. Among these—and perhaps the most fundamental—is the strong contrast between stated goals and their actual implementation” (Spehar 2012: 363). Indeed, there appears to be a trend in the Western Balkans of countries adopting gender equal laws in order to be in compliance with the EU and then struggling greatly with their implementation (Ler Sofronic et al. 2006; Metani and Omari 2006; Šmid 2006). Poor compliance with gender equality standards in the Western Balkans has been recognized by the EU (Committee on Women’s Rights and Gender Equality 2013). Currently, Kosovo is following suit, with egalitarian law in place but poor implementation.

There are three important laws protecting women's property rights in Kosovo, all of which were passed by the Assembly in 2004 while Kosovo was under the supervision of UNMIK: the Law on Gender Equality; the Inheritance Law; and the Family Law. Laws created during the UNMIK administration are modern, egalitarian, and intentionally consistent with European Union requirements. As noted above, Kosovo’s aspiration to eventually be a part of the European Union has been a factor in legal development since its declaration of independence.

The Law on Gender Equality sets overarching goals for society. Some sections are aspirational, to be sure, but women’s property rights are clearly protected. Section 12.1 reads “The economical [sic], financial, employment and social welfare legislation and the macroeconomic, micro-economic, financial and privatization programs including the right of heritage and property, loans and natural resources shall enable the equal and full participation of both females and males” (Provisional Institutions of Self Government 2004b). While this is the general rubric of economic equality for women, specific protections are enumerated, including the joint ownership of property acquired during marriage.

The Family Law is consistent with the Law on Gender Equality in protecting the rights of women to consent to marriage, establishing joint ownership of property acquired during the marriage, and the division of property after divorce (Provisional Institutions of Self Government 2004a). The last law that is pertinent to women's property ownership in Kosovo is the Inheritance Law. It too is egalitarian, naming spouses and children as constituent members of the first 'rank' of inheritors when a person dies intestate. The estate must be divided equally between them. However, a spouse does not have a claim to any family property bequeathed to the dead spouse by his or her parents or family; that property goes to the children alone or to the siblings of the deceased (Provisional Institutions of Self Government 2004d).

The critical aspect of the inheritance law that has the greatest impact on women's property issues is the right to renouncement in Section 130.1. The law states that "The heir may renounce the inheritance by a statement made to the court, until the inheritance proceedings are completed" (Provisional Institutions of Self Government 2004d). Although the provision for the renunciation of inheritance rights is a standard part of most inheritance or probate law, it is rarely used; if it is invoked, it is usually for very specific reasons. For example, a person might renounce an inheritance if they felt that a particular plot of land or immovable property would cost them more in terms of taxation and upkeep than it was actually worth. In Kosovo, renunciation of inheritance rights is frequently invoked, but not for reasons of taxation or because of the onerous burden of particular properties. Instead, it is most frequently used by female inheritors to 'refuse' or 'resign' their inheritance rights so as to allow patrilineal secession of family resources and to increase the percentage of resources left to their brothers or sons. It is the use and interpretation of this legal guarantee that has become problematic in the Kosovar case.

Enforcement of property and inheritance law

As we have seen law regarding equality of property rights exists in Kosovo, yet so too do social norms that subvert the law. In this section, the issue of why renunciation of inheritance occurs will be addressed. The facile explanation is cultural norms. Yet there is clearly more at play than culture alone, as many women assert a desire to inherit property. I will below examine how cultural practices became embedded within a resurgent nationalism in the context of Kosovo's struggle for independence and worked to exclude women from inheritance. However, this is only part of the story. As important as culture and nationalism are in the exclusion of women from inheritance, is the court system that facilitates the exclusion of female heirs, and indeed some male heirs, from their share of family property.

Part of the reason for the disparity in property rights is that Albanian tradition, including a written customary law, provides for both patrilineal inheritance and patrilocal residence. In Albanian customary law, which has been codified in written form since 1933, inheritance follows the male line, with property going to a man's children and natal family after his death, rather than to his widow.² Traditionally, it is only the male children who inherit family property. Houses and land are held in the name of the oldest male relative. Such is the power of the traditional culture that often immovable property is retained in the name of a male relative long-since dead. Few fear the loss or expropriation of family land that has been held for generations and it is not viewed as worth the trouble to transfer the title of the property when someone dies.³ It is traditional practice for extended families to live together in a large family home, with each of the brothers getting a floor, or a portion of the house for themselves and their family. Of course, in metropolitan areas these traditional patterns of living are less likely to occur. Yet, even in cities and larger towns, one can find rows of semi-detached houses, each one owned by a different brother, or extended families living together in multi-family dwellings. In Kosovo, as elsewhere, modernity and tradition coexist.

One reason women refuse inheritance rights is that, from a traditional perspective, it is an embarrassment for women to bring property into their marriages. It implies that a woman's husband cannot adequately provide for his wife. A woman claiming inheritance rights would also bring shame to her natal family as it appears that she does not sufficiently value her family, and in particular her brothers, who will lose a portion of their inheritance if it goes to their sister(s). Sisters and brothers are supposed to support one another, with brothers providing social and political support to their sisters and the sisters deferring their property rights to their brothers. The Albanian customary legal code, the *Kanun*, states that: "In the event of the inheritor being female, then a man must be sought up to the 12th remove so that this property is not left to a woman" (Fox 1989). Leaving property to women means transferring it outside of the lineage.

'Shame' and 'embarrassment' are terms frequently used by women when they describe keeping or inheriting family property (Muhamet Brajshori et al. 2012; 1107 2012; 1112 2012). In a film created by the European Rule of Law Mission to Kosovo to educate women about their inheritance rights and aptly named *Asking for Inheritance – Asking for Trouble*, one of the characters states, "I would shame my family if I demanded my equal share of property" (European Union Rule of Law Mission 2011). When this film was shown in Kosovo as part of a women's educational program on property rights, some of those attending became angry with the organizer of the workshop and accused her of trying to create problems in their families (11713 2013).

There is a deeper question as to where these cultural norms come from and why they are so persistent in Kosovo. There are strong differentiated cultural gender norms among the Albanian population of Kosovo, which—as noted above— is approximately 90% of the overall population. One interpretation is that the 'refusal' of inheritance is a performance of nationalist identity and articulation of cultural norms.⁴ These

cultural norms have been transformed since the era when Kosovo was a part of the former Yugoslavia and have been intertwined with the nationalism that led to Kosovo's independence. When Yugoslavia began to disintegrate in the early 1990s, Kosovo was left as part of Serbia and Montenegro. This compounded problems already in place for the largely Albanian population in Kosovo, which had been progressively excluded from government jobs and educational opportunities since the early 1980s. Albanians responded to social and economic exclusion by establishing parallel systems for education and healthcare. During this era, there was a resurgence of traditionalism that was manifest in a number of different ways, one of which was the greater reliance on the extended family and the strengthening of patriarchal structures within the home and society. As state control over Kosovo weakened and the war began, there were few available mechanisms of societal control and organization. This led to an increased reliance on Albanian customary law to address conflicts (Mustafa and Young, 2008). This resurgence of cultural organizational norms included traditional gender roles. Writing just following the war, at the height of Albanian nationalism in Kosovo, Julie Mertus (Mertus 1999: 174) noted, "Although a handful of Albanian women's groups now exist in Kosovo, those who have publically attempted to reexamine and redefine women's gender roles in Kosovar society have risked being harshly criticized by their own community as undermining the Albanian national struggle."

With the retraditionalization that occurred in the 1990s in opposition to the Serbian state, relying on family and traditional institutions was a political statement as well as an economic necessity because of the limited opportunities for Albanians to work outside of agriculture or the alternative health and educational institutions they had established. Now, with the independence of Kosovo, the resurgence of cultural traditions to regulate both family and economic life is no longer necessary, but still present.

Supplementing the cultural explanation

In this description of the reasons why women refuse their inheritance, the narrative is one of overlapping familial and national allegiances. Women are choosing to reject property in a performance of Albanian identity. If this is the case, and culture is the sole reason why women have such low levels of property ownership, then public opinion surveys of women should also demonstrate a resounding refusal to inherit property. In the best of all worlds, public opinion survey data would be widely available for this issue, but it is not. However, there has been one large survey of 1,050 women dispersed across the country. In this survey women were asked about their preferences for property inheritance among their own children and for themselves. Vuniqi and Halimi found that 75% of surveyed women think that both male and female children should inherit equally (Vuniqi and Halimi 2011: 36). If it is indeed the case that women believe that inheritance should be for both boys and girls, then the explanation cannot be simply an issue of choice influenced by cultural norms.

When the same survey asked women if the law supported equal inheritance rights for male and female children (which it does), 41% believed that law did not apply to inheritance issues. Instead, they believed inheritance issues were governed by tradition alone (Vuniqi and Halimi 2011: 19). These survey results are echoed in the work of NORMA, the women lawyers' association of Kosovo. Some of the work that NORMA does is directed at creating awareness of the law so that women are cognizant of the fact that they do have rights to property. This may make them less likely to resign or refuse their rights when the time comes.

If women are not actually choosing to refuse property and inheritance rights (despite the large numbers of them that do so), there are at least two other factors that may be at play: the coercion of family members; and a process of legal exclusion in the courts preventing women from claiming their property rights.

Families can encourage women to assign their property rights to their brothers or other male relatives. There is ample anecdotal evidence of this, and that even young girls are encouraged to refuse their inheritance rights before the court. While we might not be surprised that families are acting in the *perceived* interest of the whole family unit rather than the individual, what is surprising and unlawful is that local courts will affirm what are obviously coerced refusals of rights, such as those coming from minor children (11713 2013). These anecdotal reports suggest that there may be problems in the way the court processes inheritance cases and women's property rights in general. Women are skeptical of the gender sensitivity of judicial institutions when dealing with cases pertaining to property and inheritance (Vuniqi and Halimi 2011: 48). An investigation into the processes that courts are using suggests that some of this skepticism is justified.

Implementation of law

Legally there are a number of issues in the application of the Inheritance Law that create problems for women claiming their property rights. These issues fall into several categories: knowledge, process, and implementation.

With regards to knowledge, as noted in the survey, it is clear that women do not always know that they are legally entitled to inherit from their parents, and even from their spouses. The fact that female inheritance is unusual makes it possible for ignorance of the law to be perpetuated among those who would have no occasion to actually read the law or seek information.

The second category of legal impediments to women's inheritance of property has to do with the process followed by the courts. Few people make wills in Kosovo, and intestate inheritance cases follow the 2004

Inheritance Law. The first step in the inheritance process is the issuance of a death certificate. Thereafter, any heir of the deceased may renounce their inheritance. Agreements made among family members as to the disposition of property are recognized by the court as they facilitate the rapid distribution of the property and minimize the role that the courts must take in dividing resources. While it is by law optional for families to develop these agreements in the case of intestate heirs, in practice, judges presiding over inheritance cases ask the family to come up with a 'prior agreement' that the judge can use in distributing the estate (1207 2012). The creation of prior agreements leaves ample opportunity for women to renounce their inheritance rights by choice or to be pressured by family members into doing so. It is common for prior agreements to list only male heirs. According to the 2004 Law on Gender Equality in Kosovo, Section 16.13, "Inheritors, females and males can obtain and can renounce his/her share, after the registration of their inherited property" (Provisional Institutions of Self Government 2004b). In practice, renunciation of rights is occurring *before* the registration of the inherited property which makes it much easier to ignore the property rights of female heir (1207 2012).

The third category of legal impediment in Kosovo is implementation. Even if female heirs are recognized legally, having a court decision implemented in opposition to the desires of the family members presents an additional challenge, as does a need for legal knowledge. These problems of court process are exacerbated by some unusual problems that exist in Kosovo because of its post-conflict situation. Clearly, ascertaining who the legal heirs ought to be would go a long way towards rectifying issues of women's inheritance and property rights. An investigation into who the legal heirs should be would show whether sisters or daughters had been excluded in a prior agreement. This could take place through a check of the civil birth registers held by the municipalities. Unfortunately, these civil registers are not completely accurate. When the war in Kosovo occurred in 1999, Serbian authorities removed the civil and property registers from Kosovo to Serbia, and the original documents remain there. In 2012, as talks began between Kosovo and Serbia, some steps towards the normalization of relations began. One of these was a

project to bring copies of the civil registry documents to Kosovo and that same year a process of the verification of the copies of the civil registry records began. A similar process is anticipated for the cadastral records which were also removed at the time of the conflict.

The use of prior agreements, coupled with the lack of checks for legal heirs to property, allows the exclusion of women from inheriting property, even though they are legally able to do so. What is particularly interesting is that this process of facilitating intestate inheritance cases is also being used to exclude *male* heirs from a share of the family property (EULEX Interviews 2012). One of the additional effects of the conflict in Kosovo is that families were dispersed across Europe in the wake of violence. Some returned when the conflict ended and others did not. The poor economy in Kosovo has also led to an outmigration of young workers for better jobs in nearby countries. As a result of both factors, it is not uncommon for the heirs of a person who has died intestate to be out of the country. This has led to a number of incidents in which prior agreements written by families have excluded certain heirs, male as well as female. There are an increasing number of complaints being brought to the human rights office at the European Rule of Law Mission in Kosovo (EULEX) regarding complaints from male heirs excluded in the inheritance process because judges have not consulted the municipal registers (EULEX Interviews 2012). In these cases, the mechanism via which male heirs are excluded from their inheritance is the same process via which women 'refuse' or renounce their inheritance. The family comes to the Municipal Court with a prior agreement regarding how the family will divide the assets. The Municipal Courts then simply approve the family agreement without investigation into whether there might be other legal heirs.

The judiciary's lack of enthusiasm for the enforcement of inheritance law is not entirely surprising. While the law is perfectly egalitarian and aligned with EU norms, not everyone in Kosovo supports the goal of future EU membership or is concerned about international legal standards. Indeed, international

involvement in Kosovo, both through the EU and UNMIK, has not been popular with all sectors of the population. After 2008 in particular, political opinion in some circles has opposed any sort of external intervention. There is a ‘high degree of hostility’ towards the EU and its involvement in national politics (Papadimitriou and Petrov 2013) despite the fact that many in government are working hard towards the goal of EU compliance and accession. One political party, Vetëvendosje, argues that the UNMIK period was undemocratic and they reject further infringement of Kosovo’s sovereignty by external actors, no matter what their intention (Vetëvendosje 2010). While their perspective represents an extreme, the end of UNMIK sovereignty led to a desire among some Kosovars for complete independence from outside intervention, even that which is intended to help them towards European integration. So significant is this opposition that EULEX launched a public relations campaign in 2013 with the slogan “We have to fix our own house, a friend that comes to help us, we should help him to help us” (EULEX 2013).

The role played by the UN was critical to early legal development in Kosovo and it is unthinkable that laws would have been passed while the country was under the UN administration that would not have been egalitarian with regard to women or consistent with the most robust understandings of human rights. In the post-UNMIK period, the direct and indirect influence of the European Union should have a positive impact on the enforcement of women’s property laws in Kosovo. However, creating property legislation, difficult though it may be, is substantially different from the local processes of enforcing property law in legally pluralistic settings (Joireman 2011; Sikor and Lund 2009). This is particularly visible in the case of Kosovo where international engagement has had such an impact on the legislative process and early state formation. There are no losers from the creation of egalitarian property laws— indeed political elites may be rewarded for the creation of laws which meet international norms—but there are many losers from the enforcement of egalitarian property laws. When we turn our focus from the creation of law to its enforcement, our attention must move from the national political arena of each country to the locality and to the exercise of authority within communities and through the judiciary.

The period of direct intervention by the UN in the country left a positive as well as a negative legacy. The positive legacy is apparent in the excellent laws regarding property and gender equality. The negative legacy is perhaps less clear: UN supervision of the country was not regarded by all to be a good thing and the laws implemented under UNMIK are by necessity enforced by judges and bureaucrats who may feel ambivalent about them: that they were imposed by outsiders; that the new laws are a threat to the patriarchal Albanian culture; or that they are simply not an accurate reflection of what citizens of Kosovo would choose for themselves. The imposition of laws from above is one additional reason for the large gap between written law and enforced law in Kosovo.

Conclusion

This is a particularly interesting time in terms of property issues and their enforcement in Kosovo. All citizens, male and female, are affected by the enforcement of property law. Enforcement has been a salient political issue in the past and has the potential to become an even more significant political issue in the near future with the repatriation of the property records from Serbia. Attention to property rights issues is much-needed in Kosovo. After the war, buying and selling of property occurred without proper documentation, the property of displaced people was usurped, illegal construction became common, and the complexities of privatization in a post-socialist setting were compounded by population displacement. The lack of enforcement of women's property rights is just one of the multiple and important property issues that needs to be addressed in Kosovo. In some regards it is easy to resolve compared to the other property issues Kosovo faces. It is not legally complex to grant women their inheritance rights, nor is there uncertainty with regard to the precise nature of the implementation of the law. Moreover, addressing the problems in the legal system that allow for women's inheritance rights to be easily circumvented will benefit the whole population, male and female. This is a strategic moment in Kosovar history in which the

state can choose to devote resources and effort to the enforcement of their property laws or to continue with arbitrary processes that do not align with legal codes. One path would set Kosovo firmly on the path towards European integration and economic development; the other will ensure continued economic stagnation.

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² The *Kanun* was not codified until a Franciscan priest, Shtjefën Gjeçov, began to write it down in 1913. The priest was murdered for his pro-Albanian political views before finishing the work and other monks completed the codification in 1933 and published it with Gjeçov noted as the author (Fox 1989).

³ Indeed, there is a problem in Kosovo of record-keeping with regard to the property cadaster.

⁴ I thank Nita Luci for this insight.