

Women Participation to Inheritance in Kosovo

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Abstract:

The right to inheritance is one of the basic human rights. This right in Kosovo is regulated by the Law on Inheritance. This law represents a modern law harmonized with the highest international standards in this field. It regulates substantially, all the matters related to inheritance. The Law on Inheritance in Kosovo through its solutions ensures full equality of women with men to inheritance. Regardless of this, practical realities of life prove a completely different situation. Consequently, women participation to inheritance is estimated to be very limited. The reasons for this situation are numerous and of different natures. In fact, these reasons significantly are the reflection of still strong influence of the Albanian customary law in people's consciousness. This is the law that constantly treated women as a second hand subject. In this scientific paper is made a modest attempt to brief a short historical of women participation to inheritance issue in Kosovo, to continue with the legal aspect treatment and practical situation of women participation to inheritance manifestation in Kosovo during the period of time 2008-2012.

Key words: Kosovo, inheritance, women, law, will.

Introduction

Numerous sources prove that the manifestation degree of women participation to inheritance depends on her position in family and generally in society. In fact, women participation

degree to inheritance affects not only in social position, but also cultural, educational and scientific ones, including the degree of representation in country public institutions as well as her position in decision-making at all levels of society. Therefore, a higher level of women participation to inheritance dictates her independence degree to mark advanced dimensions. In fact, all this would dictate inevitably in advancement of knowledge level, and therefore her more active role in society.

Women inheritance aspects in Kosovo society continue to attract attention of different theoreticians, civil society, but also to respective state bodies, which in essence belongs the burden through exercising legal authorizations to influence in increasing awareness concerning fulfillment of this right of feminine gender persons.

In Kosovo women participation degree to inheritance during the period of time 2008-2012 results to be at very low levels. The reasons of this situation are related to customary nature, respectively of archaic mentality, tradition influence, and customary law impact, according to which women did not have the right to inherit in her husband's family neither in origin.

In this scientific paper initially will be treated a short historical of women inheritance issue in Kosovo, in the following will be reflected legal and practical aspects of situation characterizing the actuality of this issue, whereas in the end will be presented some of the main conclusions referring to this issue.

1. A brief overview of women historical position to inheritance

Women position to inheritance in Kosovo during the history is determined, apart from cultural and educational level development, and also from the regulation manner of this issue within applicable legal sources. On this regard, initially will be conducted a brief elaboration of women position to inheritance

in Albanian customary law, to continue to address this issue during the Turkish rule times until nowadays.

The Albanian customary law, summarized in the Kanun of Lekë Dukagjini, The Kanun of Skënderbeu, The Kanun of Labëria etc, besides numerous rules with multidimensional nature contains also some rules of hereditary character (See: Chapter VIII of The Kanun of Lekë Dukagjini and Chapter X of The Kanun of Skënderbeu).

According to Albanian customary law (See: The Kanun of Labërisë, Pukës etc.) the right to inheritance had only men¹ and only men who were from the father's blood tree and not from affinity genus.² As it results, the Albanian customary law before "Sharteve of Idriz Sulit", excluded woman and daughter from the right to inheritance.³ Whereas after them it was allowed for women to take a quarter of the property, just like Islamic law allowed. Under the influence of this right, the Albanian customary law provided also the cases when the spouse might be excluded from inheritance. Such cases were: a) when she was suspected of adultery (having sexual relations with a third person) and b) when she had another religion and could not inherit the muslim for example, when she was catholic and denied the Islam religion.⁴

The Albanian customary law contained also some special rules for the widow, which after the death of husband had some limited rights. Thus, in case she had any children or she was old, she could stay to the husband's house or return to parental house, when she was staying at husband's house, the heirs of his property, were obliged to provide her the food, clothing and respect. (See: Nye 37, paragraph 99 of The Kanun of Lekë

¹ Elezi Ismet, Criminal customary law of Albanians, Tirana, 1983, pg. 37-45.

² Elezi Ismet, Customary law of Labëria in comparative plan, Tirana, 1994, pg. 143.

³ In this aspect, The Kanun of Lekë Dukagjini in Nye 36, paragraph 91 (a) emphasizes that "Neither to the parent or to husband the woman is not part of the inheritance". Further more Nye 92 states that: If there would not be men at all in a house, and a hundred of daughters have no right to interfere to inheritance, nor sons and their daughters.

⁴ Elezi Ismet, Customary law of Labëria, pg. 143.

Dukagjini). When she went to her parent's house or lived separately and did not get remarried, she had the right while she was alive, to get of three burden corn per year. Therefore, when woman returned from parental house, brothers and other heirs of the father's property had a duty to welcome daughters or to advise the widows when they could not get married.⁵

Besides the widow, also the girls that were declared virgins publicly meaning those who decide not to get married until they were alive, they had the right to administration of deceased father's property. When there was no boy alive, she had the right to inherit. In other words they had some limited rights, but not the full right to inheritance like boys. After their death, the property was inherited from cousins of paternity tree.⁶

From this brief reflection of women inheritance issue, observing this in the context of customary rules, it may be concluded freely that Albanian customary law, despite some later modest changes, represents a right that in foundation denied the right of woman to inheritance, and so determined also her subordinate position in Albanian society through centuries.

During the Turkish rule Turkish state law and religious recognized legal and testamentary legacy.⁷ Consequently, within Turkish law woman appeared as a legal and testamentary heir, although in some cases was not equal to man.⁸ In fact, within Sharia law all women (whether the fourth ones) inherited only the woman part, whereas man inherited the man part even from each woman who died before him. Consequently, woman of the nearest degree of genus blood did not exclude from inheritance male heirs of the most distant

⁵ Ibid. pg. 144.

⁶ Ibid. pg. 144.

⁷ Aliu Avdulla, Some words for Ottoman Civil Code-Mexhele, Scientific papers summary of Faculty of Law in Prishtina, Special publication on the occasion of 25th anniversary of the Faculty of Law, Prishtina, 1986, pg. 195.

⁸Verbani Musli, Women inheritance in Islamic Sharia, <http://www.mesazhi.com>, pg. 1.

degree, so not even heirs from paternity trunk had advantages against heirs at maternity trunk. But when it came to the same degree of blood genus, males had the right to inherit more, usually two times more than females.⁹

After the Turkish rule has ended, and the establishment of Serbian rule, Turkey legal provisions that were applied for centuries made room for laws, respectively numerous decrees of Serbia of that time. Thus, in the field of civil issues Serbia imposed the application of the Kingdom Serb-Croatian-Slovenian Civil Code of 1844 and other laws regulating civil-legal relations.¹⁰ In general, this legislation recognized the legal and testamentary legacy, but it gave an advantage to legal legacy. Woman, excluding some specific cases, was equal to inheritance with man. So at the same blood genus degree, men had the right to inherit more than women.

During the World War II Kosovo was invaded by different occupiers (German and Bulgarian). During this period were applied different provisions regulating civil-legal relations, including those that addressed heritage issues. Consequently, each of the invaders in their part implemented their own right, but also allowed the application of domestic law when they considered closer to Kosovo population. Determined by the element time, foreign occupiers even though announced new changes in property and inheritance relations, they nevertheless allowed these relations to be addressed through Sharia Law and the Albanian customary law. Since women position to inheritance according to these two types of rights is elaborated above, I do not see any reason to do it now.¹¹

After the World War II, Kosovo remained within Yugoslavia, respectively Serbia, at the beginning in very

⁹ Ismajli Hilmi, Sejdiu Fatmir, *The history of state and law I*, Prishtina, 2005, pg. 225.

¹⁰ Obradović Milovan, *Agrarna reforma i kolonizacija na Kosovo (1918 -1944)*, Priština, 1981, pg.24.

¹¹ Statovci Ejup, *Some issues about the civil law sources and the regulation of some legal-civil relations in Socialist Autonomous Province of Kosovo*, Përparimi, No. 3; Prishtina, 1976, pg. 318.

uncertain position, and later on by identity and subjectivity (autonomous province) within Yugoslavia federation.¹² Regarding the inheritance matter, in 1955, in former Yugoslavia was issued the Law on Inheritance, which was applied in Kosovo also. By constitutional amendments of the former Yugoslavia Constitution of 1963 Kosovo acquires the right to legislate. Within the acquired competencies, on 30 December 1974 Kosovo issues its first Law on Inheritance. The aim of this law¹³ was to regulate on legal and sustainable basis issues referring legacy.¹⁴ This law and its amends of 1979 have guaranteed full equality of woman with man to inheritance. Despite this, it can be emphasized that based on practical reality, under the influence of many unwritten rules (customary) and a tradition created among centuries, nevertheless the Albanian women in very rare cases uses this right among the basics. Consequently, the use of this right is estimated to have been expressed mainly in cases when the decedent died without leaving heirs representing the first rank of heritage (descendant and spouse). So, it may be said freely that the Law on Inheritance of 1974 women de jure were equal to inheritance, but de facto they did not use the right to inheritance in accordance with this law.

2. Women inheritance in Kosovo during the period of time 2008-2012

¹² Kosovo status issue in Communist Yugoslavia was decided as well as all other essential issues, from above. This means that Kosovo Albanians had no opportunity, as there have been promises during the war, to be declared by themselves for their future.

¹³ See: Law on Inheritance, Socialist Autonomous Province of Kosovo Official Gazette, No. 43/1974. This law had been adopted on 30 December 1974 and it had been published on 31 December 1974. It had been amended on 11 July 1979 and had been published at Official Gazette of Socialist Autonomous Province of Kosovo on 24 July 1979 No. 28/79.

¹⁴ Outside the scope of this law were left legal-inheritance relations concerning apartments, which were regulated in a unique manner by the Law on Inheritance in Serbia.

The Law on Inheritance in Kosovo (applicable law No. 2004/26) recognizes legal and testamentary inheritance. Legal inheritance defines the issue of heirs derive by the law. Since their number is large is determined the need to be built the so-called inheritance ranks. So the first rank of inheritance is constituted by the decedent's children and spouse.¹⁵ The second rank of inheritance is constituted by decedent's parents and spouse, when the latter does not inherit at the first rank of inheritance;¹⁶ whereas the third rank of inheritance is constituted by the decedent's grandparents. In terms of inheritance, heirs of the first ranks exclude other heir ranks. Unlike legal heirs testamentary heirs derive from the will.

Consequently according to solutions specified in the Law on Inheritance in Kosovo, woman is completely equal to man as in legal testamentary as well as in testamentary inheritance cases.

Due to the lack of complete data (they are not kept systematically neither nowadays) I have been obliged to reflect the women participation to inheritance degree in Kosovo through statistics that I have provided only for municipalities of: Gjilan, Kamenica, Mitrovica and Vushtrri for the period of time 2008-2012. Regarding testamentary inheritance these data prove that from three wills realized, neither of them woman was not beneficiary to inheritance property. According to data that geodetic directories of these municipalities from 4986 4986 transfers of inheritance in favor of women are realized only 764 cases or 15:32%,.In the meanwhile, the issue of women participation degree to inheritance according to and the law will be addressed in the following of this scientific paper, and for all the grades where woman may be appeared as heiress.

2.1. Legacy of women as the decedent's child

¹⁵ Nuni Ardian and Hasneziri Luan. Civil Law III (Inheritance), Tirana, 2010, pg. 58-61.

According to the Law on Inheritance (paragraph 1 of the article 12) the decedent shall be inherited, prior to all others, by his children and spouse. In this regard (paragraph 2 of the article 12 of this law) is specified the right of each decedent's children (including his spouse) shall inherit in equal shares. In the context of right to inherit, the Law on Inheritance in Kosovo (article 22) specifies that the children born in marriage and outside marriage when the fatherhood is regularly known or verified by a court or competent body order, as well as those adopted, and their descendants, shall have equal rights to inheritance.¹⁷ However, this equality to be expressed is required their fatherhood to be regularly known or verified by a court or competent body order. Also, the Law on Inheritance in the article 24 related to the article 22 specifies that the adoptee and his descendants shall have the same rights towards the adopter as to adopter's children and their descendants, respectively those outside marriage concerning decedent's inheritance.

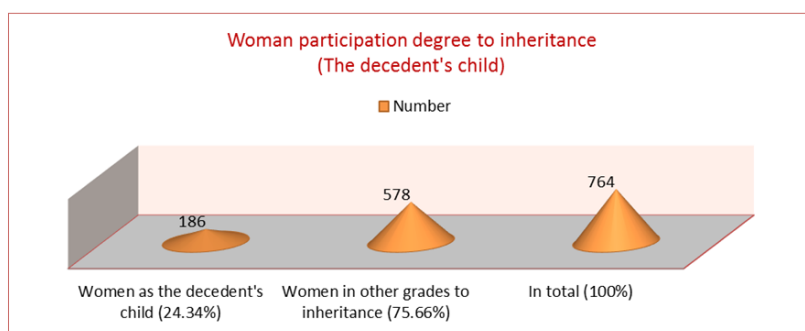
These and other legal provisions that address decedent's children inheritance issues are built in a manner that ensure full equality to inheritance of male and female children. This conclusion may be easily done based on the fact, there is not a single provision, this law does not even raise the eventual formal separation issue of male and female children. Simply, the legislator does not make distinctions of children of feminine gender from those of masculine gender, does not favour children of one gender to another gender children, but provides them full equality.

Despite the fact that the legislator through legal solutions has ensured equal treatment to inheritance of all decedent's children, regardless of their gender affiliation they have (males or females), factual situation proves for a very

¹⁶ Spouse will not come in a situation to inherit at the first rank of inheritance in any case when the decedent does not have children, whether born in marriage or extramarital, respectively adopted.

¹⁷ Podvorica Hamdi, Marital law, Prishtina, 2012, pg. 161-171.

different reality. This ascertainment is based on data that we have provided regarding to decedent's children property inheritance issue (observing this in gender context) for the municipality of Gjilan, Kamenicë, Mitrovicë and Vushtrri for the period 2008-2012. According to the information available of geodetic directories of these municipalities, in a special diagram will be presented the data concerning the woman participation to inheritance as the decedent's child, where is noticed that the number of male children is significantly greater versus female children.



According to data of this diagram, women as the decedent's child in four abovementioned municipalities participate as heiress property in 186 cases, respectively 24.34 %.¹⁸ This participation is estimated to be satisfactory in comparison to participation that women generally manifested as heir property. However, when this participation is compared to male child participation it turns out to be very low. Thus, until the male child according to research conducted in municipalities of Gjilan, Kamenica, Mitrovica and Vushtrri participates in 3847 cases as heir property, female child participates in only 186 cases. However, when these data are compared to general

¹⁸ It is estimated that in most of the cases where have been inheritance transfers in Kosovo, women regardless of the status she had in family, willingly gave up from their right to inheritance. The reasons for this must be different and have deep roots in history.

inheritance data, then it will be argued even more strongly the fact that indeed women participation to inheritance as decedent's child is very small and about 3,73 %.

This low degree of woman participation to inheritance as decedent's child it may be explained with still preservation in people's consciousness the rules of customary law and tradition and with still low level of women awareness concerning inheritance acceptance. The results of this research prove that women participation as decedent's child has been expressed mainly in cases when the decedent has no left behind children of masculine gender. This, in fact once again proves the strong influence that customary law rules have in this field and nowadays.

2.2. Women inheritance as the decedent's sister

The decedent's sisters issue inheritance is regulated by provisions of the article 15 of the Law on Inheritance of Kosovo (LIK), and it has been treated as same as decedent's brothers inheritance. These two categories of heirs Kosovo legislator fully equalizes. According to paragraph 1 of this article (15 of LIK) if one of the decedent's parents died before him, the part of hereditary property that would have belonged to him if he had survived the decedent, shall be inherited by his children (the decedent's brothers and sisters), his grandchildren, and great-grandchildren, and further descendants.

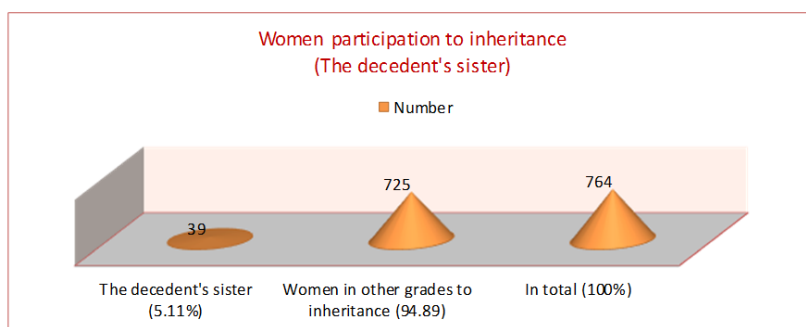
Also, according to paragraph 2 of the article 15 of Law on Inheritance of Kosovo, if both parents of the decedent have died before him, the part of hereditary property that would have belonged to each of them if they had survived the decedent shall be inherited by respective descendants, respectively by decedent's brothers and sisters, his grandchildren, and great-grandchildren, and further descendants.

Finally in the context of paragraph 3 of the article 15 of Law on Inheritance in Kosovo, at all times, the decedent's siblings related to him through his father only shall inherit

equal shares of the father's hereditary share, and siblings related to him through his mother only shall inherit equal parts of the mother's hereditary share; and siblings related to the decedent through the same mother and father shall inherit the father's hereditary share in equal parts with the siblings from the father's side, and the mother's hereditary share with the siblings from the mother's side.

From the legal provisions analysis who address decedent's siblings inheritance it can be easily concluded that Kosovo legislator set clear frames to ensure fully equal position of brothers and sisters to inheritance, in any case when they in compliance with legal provisions, get called to inheritance. Therefore, the legislator does not recognize any favour to brothers against sisters, neither to sisters between each other (big sister or little sister etc).

However, regardless of what legal provisions specify, in practice there is a completely different situation. Thus, when the heirs get called to inheritance, are mostly brothers who inherit, and very few women. This situation is also reflected from the data of geodetic directories in Gjilan, Kamenica, Mitrovica and Vushtrri for the period of time 2008-2012. In the following diagram, within the data reflecting women participation degree to inheritance, will be addressed the data for decedent's sisters to inheritance.



According to the data of this diagram the decedent's sisters have participated to inheritance in his property in 39 cases,

respectively in 5.11%. These data were compared to data reflecting the degree of women participation to inheritance generally. Therefore, if these data are compared to the overall data that exist for the four abovementioned Kosovo municipalities then it is evident that this participation is many times smaller, and it is about 0.78%. On the other hand, the participation of brothers, observed in the context of statistics geodetic directories of aforementioned municipalities included in research, marked a significantly a greater presentation (211) cases.

Apparently siblings participation to inheritance is very small. This may be explained by the fact in the conditions of life in Kosovo there are very rare families which absent the heirs of the first rank of inheritance. Bearing in mind that they have used this right is natural the decedent's siblings does not come at rank to inherit decedent's hereditary property.

On the other side, much smaller participation of sisters to inheritance in comparison to their brothers,¹⁹ it can be explained by the fact of influence that still have rules of customary law in rural and undeveloped areas of the country, of tradition, but also with the level of culture existing in the country concerning issues related to inheritance. It must be emphasized the fact that decedent's sister, in cases when she gets called to inheritance, usually inherited the property in the situations where the decedent's brothers were absent.

2.3. Women inheritance as a decedent's parent

Issues related to the decedent's parents inheritance, regardless of their gender, were addressed by the article 14 of the Law on Inheritance in Kosovo. Decedent's parents get called to inheritance in cases when the decedent did not leave first rank heirs. The decedent's parents shall inherit in the second rank of

¹⁹ According to Sabri Zylfiu, an independent surveyor from Prishtina, states that sisters mainly participate to inheritance when they have no brothers. Whereas, when they have brothers, usually they give up from the inheritance

inheritance. Therefore, “when both parents are alive in case of decedent's death, and when compete with them the decedent's spouse, to each parent will belong, duly a quarter of hereditary part”.²⁰ This means that the decedent's parents shall inherit the decedent's half property, whereas his spouse shall inherit the other half of the property.

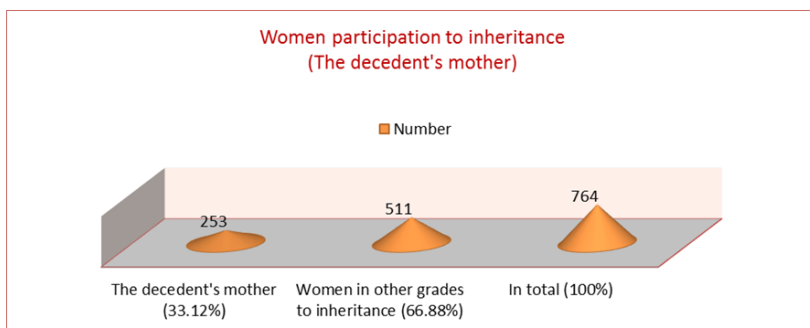
According to paragraph 2 of the article 14 of the Law on Inheritance in Kosovo in cases when the decedent did not leave a spouse, then the decedent's parents shall inherit its entire property in equal shares.

Finally, it must be emphasized the fact when one parent dies without leaving descendants, then him according to the article 16 of the Law on Inheritance in Kosovo shall inherit the other parent. By analysing these and other provisions which address the decedent's parents inheritance issues easily it may be concluded that all those have determined sustainable solutions expressing full equality of his both parents in this regard, irregardless of if it is about its mother or father. With such solution Kosovo legislator has preserved the treatment coherence without any type of heirs discrimination concerning the gender, despite the rank of inheritance they do belong. Therefore, in legal terms, the decedent's father in cases when his parents get called to inheritance, does not have any single favour in comparison to his mother.

Even though, the legislator considers equal the decedent's parents in cases when they get called to inheritance, practical realities of life prove otherwise. This fact, is also argued by geodetic directories data of these municipalities: Gjilan, Kamenica, Mitrovica and Vushtrri for the period of time 2008-2012. Such situation is proven through the following diagram, in which will be presented the decedent's mother participation degree to inheritance, within women participation limits generally at this issue.

right, because they do not want the property from the family of origin to pass to the husband's family. The interview was conducted on April 18, 2013.

²⁰ Podvorica Hamdi, *Inheritance Law*,..., pg. 55.



According to data of this diagram the decedent's mother has participated as heiress of his property in 253 cases, respectively in 33.12%. These data were compared to data reflecting women participation degree to inheritance in general. This means, if this participation is compared to the general data that exist for four aforementioned Kosovo municipalities, then it will turn out to be that this participation is not just many times smaller, but also negligible and is about 5.07. On the other side, father's participation observed in the context of geodetic directories statistics in these four municipalities has marked a higher presentation of participation to inheritance (633 cases).

Relatively small participation of the decedent's parents to inheritance it can be explained with what have been emphasized above that regarding life conditions in Kosovo there are very rare families which heirs of the first rank of inheritance are absent. Bearing in mind they have used this right is natural that the decedent's parents does not come in rank to be called to inheritance.

On the other side, smaller participation of the decedent's mother to inheritance in comparison to his father, in cases when they get called to inheritance, it may be explained with the influence still manifested in society of some customary rules and traditon, but also with the level of culture existing in the country concerning issues related to inheritance, where women practically is treated more differently. According to some

evaluations in some cases to the decedent's father and mother is transferred the proprietorship into real estate only due to the fact of accomplishment of any right from social security of the decedent, also these data must be taken with reservations concerning the issue that is the subject of this research.

2.4. Women inheritance as the decedent's spouse

Consequently, in accordance with paragraph 1 of the article 12 of Law on Inheritance in Kosovo, the decedent shall be inherited, prior to all others, by his children and spouse. The spouse, as well as the decedent's children get called to inheritance prior to every other possible heir. In fact, children and the decedent's spouse belong to the first rank of inheritance and they exclude from inheritance all the other persons which law in general principles foresees as a possible heir of the decedent's property. In these cases the spouse participates to inheritance in equal shares with the decedent's children. This means, duly, hereditary property of the decedent will be divided into as many parts as he has children plus the spouse.²¹ Whereas, in cases when the decedent did not leave descendants, then in accordance with paragraph 1 of the article 134 of the Law on Inheritance in Kosovo, shall be inherited by his parents and spouse.²² If the decedent did not leave parents at all, respectively if the decedent's parents had died before him, then in accordance with paragraph 3 of the article 14 of the Law on Inheritance in Kosovo, the spouse inherit the entire property.

From an analytical overview that may be done to these and other legal provisions²³ by which may be addressed the

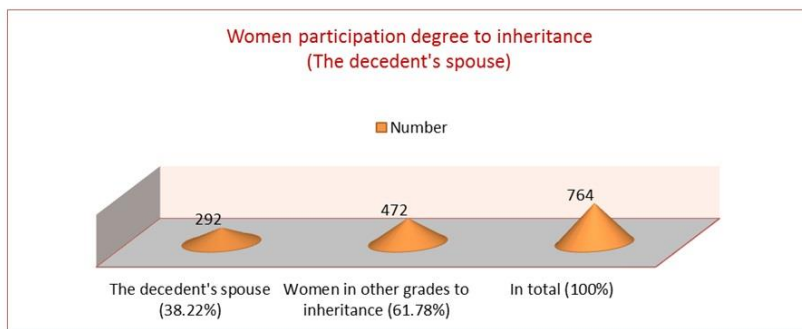
²¹ If the decedent has left behind three children and wife, then his property, duly, will be divided in four equal parts.

²² The absence of the decedent's descendants, as it results, is an absolute barrier to the development of the first rank of inheritance. In these cases the decedent's spouse is not excluded from inheritance, but he is transferred from the first rank of inheritance to the second.

²³ The decedent's spouse, according to paragraph 1 of the article 26 of the Law on Inheritance of Kosovo, has the right to ask for the entitled share from the joint property gained by work between the spouses during their marriage. Therefore, in cases when the decedent and his spouse had common property

decedent's spouse inheritance issues, easily can be concluded, observing this in the gender context, Kosovo legislator has ensured equal treatment regardless of the fact if the surviving spouse is of masculine or feminine gender.²⁴ In fact, this solution should be seen at logical concept and coherence that other solutions of the Law on Inheritance in Kosovo address, at issues referring to women treatment, despite the rank of inheritance, in which she is appeared when she gets called to inheritance.

Nonetheless, when women inheritance issue lies in practical terms, similar as regarding other women grades as heiress (child, decedent's sister etc.) then there is a completely different situation. This fact, indicate also geodetic directories municipalities data: Gjilan, Kamenica, Mitrovica, and Vushtrri during the period of time 2008-2012. Such situation is proven through the following diagram that will be presented in which will be reflected decedent's spouse participation degree to inheritance within women participation limits generally in this issue.



under their matrimonial property regime, only the share that pertains to the decedent after distribution of the common property shall fall in the scope of inheritance (paragraph 2 of the article 26 of Law on Inheritance of Kosovo). This means that for the common property share that belongs to the decedent's spouse is applied a special regime and the same cannot be the subject of inheritance.

²⁴ Legal provisions included in the Law on Inheritance of Kosovo, in general, have provided a treatment that is to be evaluated concerning the spouse position, when it comes to her participation to inheritance. Of course, these are already standard solutions posed in all modern states.

According to data of this diagram the decedent's spouse in four aforementioned municipalities has participated as heiress of property in 292 cases, respectively 38,22 %. This participation is estimated to be satisfactory in comparison to participation that manifested women as property heirs in general. Although, when these data are compared to the general data existing for four aforementioned Kosovo municipalities (4986), then it will turn out to be really small participation and is about 5,85%. The low degree of the decedent's spouse participation to inheritance, similar to other cases when women gets called to inheritance, it may be explained by still preservation in people's consciousness of customary law rules and tradition, as well as by still low degree of women awareness concerning inheritance acceptance.

2.5. Women inheritance as the decedent's extra-marital spouse

According to paragraph 2 of the article 11 of the Law on Inheritance in Kosovo the decedent is inherited by his extramarital spouse²⁵ that is as equal as the marital spouse.²⁶ Whereas, in accordance with paragraph 1 of the article 28 of the Law on Inheritance in Kosovo a man and a woman cohabiting in a non-marital relation may inherit each other as spouses if:

1. The non-marital relation with the decedent up to the moment of death has lasted for at least 10 years, or children were born from this relationship, for at least 5 years,

²⁵ Factual union (extramarital) is equal to marital relation in terms of rights and obligations to care, mutual financial support, and property rights as defined by the law. For this more broadly see: Haxhi Gashi/ Avdulla Aliu,/ Adem Vokshi, *Commentary-Family Law in Kosovo*, Prishtina, 2012, pg. 97 – 99.

²⁶ Extramarital union, in terms of this legal provision (11.2 of Law on Inheritance in Kosovo), is considered the cohabitation union between an unmarried woman and an unmarried man, which has lasted for a long time and ended because of death of the decedent, on condition to be fulfilled the presumptions of validity of the marriage.

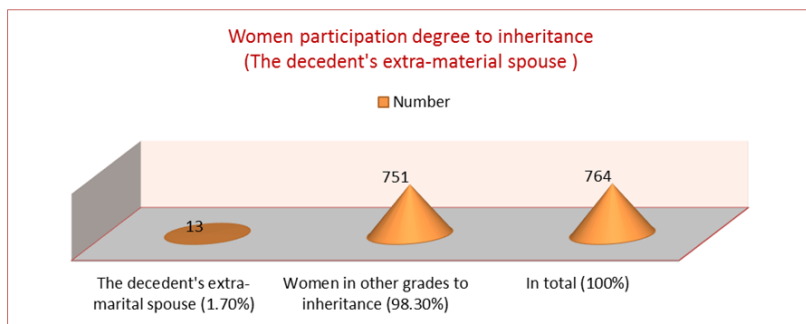
2. At the moment of the decedent's death, neither of the cohabiters was legally married to a third person, or if the decedent was legally married to a third person, he had filed a petition for divorce or annulment of his marriage, and after his death such petition was found to have merit, and
3. If they had lived together for at least 10 years, but did not have common children.

Consequently, paragraph 3 of the article 28 of the Law on Inheritance in Kosovo specifies that cohabiters shall not be compulsory heirs.

From the analysis done to these legal provisions it may be concluded that nevertheless the legislator equals marital spouse to extramarital spouse in cases related to inheritance, yet it cannot be said that this equality is comprehensive. This conclusion results by the fact that involvement to inheritance of non-marital spouse the legislator conditioned through establishing a certain conditions (deadlines concerning the duration of such union and the fact of not being in a lawful marriage with a third person) as well as the denial of their rights to be compulsory heirs.

On the other hand, when legal provisions included to this treatment are analysed in the context of gender equality for non-marital spouses, it may be concluded that the same provide their full equality. Therefore, to the non-marital spouse the legislator does not recognize any privilege in comparison to extramarital spouse.

Despite of the existing solutions, the situation observed in practical terms it turns out to be not pleasant. This fact, is proven also by the data of geodetic directories of municipalities: Gjilan, Kamenica, Mitrovica, and Vushtrri during the period of time 2008-2012. Such situation is proven through the following diagram that will be presented, in which will be reflected the decedent's extra-marital spouse to inheritance within women participation limits generally in this issue.



These data prove that, the decedent's extra-marital spouse participation degree to inheritance has been small and is about in 13 cases or 1.70 %. This participation if compared to the general used data of geodetic directories of four municipalities in which this research has been conducted, it turns out to be many times smaller, and is about 0.26 %. The reasons of low participation of extramarital spouse to inheritance should be seen in the fact that such marriages in Kosovo are still few, but also in other circumstances related to tradition.

Conclusion

The results of researches conducted indicate that women position to inheritance is equal to men position and this position is guaranteed by the Law on Inheritance of the Republic of Kosovo.

The right of women to inherit in time and different space has manifested more or less advanced levels. The results of this paper prove that socio-economic and other circumstances related to them, sensitively have determined women position to inheritance and society in general.

References prove that The Kanun of Lekë Dukagjini, The Kanun of Skënderbeu and other Albanian Kanuns sanctioned the rule that the ability to inherit had only men, and only men who were from the father's trunk blood and not from the mother's trunk genus. The Albanian customary law, despite

some modest changes later, represents a right that basically denied woman's right to inheritance, and so has determined its subordinate position in the Albanian society for centuries.

Researches conducted indicate that in our territory where Sharia law has been applied women presented as legal and testamentary heir, although in some cases it was not equal to men. In fact, under Sharia law all women (even if they were the fourth ones) inherited only the women part, whereas men inherited men part, from each women died before him.

Kosovo Law on Inheritance of 1974 and its amendments and supplements of 1979 had proclaimed the full equality of men and women to inheritance. Despite this, it can be said without any hesitation that based on the practical reality, under the influence of many unwritten rules (customary) and a tradition created for centuries, nonetheless the Albanian women in very rare cases used this right as one of the basics.

The legislator through legal solutions designed to Inheritance Law of Kosovo has ensured equal treatment to inheritance of the decedent's children; brothers and sisters; his parents and spouse regardless of their gender affiliation. Despite this, practical realities of life prove the existing of a situation that may be considered discriminatory, concerning people coming from these categories and who belong to feminine gender. This fact is proven by the data that we have been referred during the preparation of this topic.