



**Integrating Land Governance into the Post-2015 Agenda  
Harnessing Synergies for Implementation and Monitoring Impact**

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**TITLE OF THE PAPER**

**ICT IN SUPPORT OF EVIDENCE BASED POLICY MAKING:  
LAND AND GENDER IN THE WESTERN BALKANS**

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**Abstract:**

The article presents a joint FAO and World Bank initiative to integrate the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* principles on gender equality into the Bank financed land administration projects in six Western Balkans countries. Even though the land agencies generate inordinate amounts of data, these are not efficiently used to inform policy makers, because of lack of capacity and manpower to properly process and link them between sub-sectors and over time. The article presents the results from Greater Than Leadership program for Inclusive and Informed Land Administration in the Western Balkans, aiming to build capacity to generate gender disaggregated reports and use them for evidence based policy making. The produced gender disaggregated reports shows that although women and men have equal status in law in relation to property as well as equal access to information, local customs, cultural norms, and traditions prevail over laws in some places and amongst certain groups. The paper presents the needs, means, challenges and experiences in generating and using gender aggregated data on property ownership in the Western Balkans, key issues and lessons learned.

**Key Words:** Evidence-based policy, Governance of Tenure, Innovation, Gender disaggregated data, Voluntary Guidelines

## I. INTRODUCTION

*“State should improve mechanisms for monitoring and analyses of tenure governance in order to develop evidence-based programmes and secure ongoing improvements.” - Voluntary Guidelines (VG) on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.*

The *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*, which has been endorsed by the Committee on World Food Security (CFS) on 11 May 2012, set out principles and internationally accepted standards for responsible practices. They allow government authorities, the private sector, civil society and citizens to judge whether their proposed actions and the actions of others constitute acceptable practices.

The Guidelines underline that gender equality is at the core of all processes and aspects of tenure governance, including policy formulation, service provisioning, and access to legal systems and information. They also provide guidance to improve gender equality in both formal and customary systems. A Technical Implementation Guide: Governing land for women and men assists the Voluntary Guidelines implementation focusing on equity and on how land tenure can be governed in ways that address the different needs and priorities of women and men.

FAO is working with its partners to build up on the results achieved and to further streamline the Voluntary Guidelines implementation in the existing projects and in the design of the new projects.

The article presents a joint FAO and World Bank experience in integration of the Voluntary Guidelines principals into the ongoing Land Reform and Administration projects and into the design of a new project in the Western Balkans. The predominant FAO and World Bank support behind the Land Administration reforms in Europe and Central Asia (ECA) region during the last decades was to rebuild the systems of secure real estate tenure by developing transparent and accessible systems of real estate registration and cadaster (over USD 1.4 billion in loans and grants). Currently the World Bank is financing 16 land administration projects in ECA for 645.32 MUSD and several more are in the pipeline. Over 56% of the investments made by the World Bank in ECA have been utilised for the Land Administration IT systems implementation. Changes in technology has contributed to better governance of tenure of land in ECA through improved services from efficiency, effectiveness, transparency, limiting opportunities for corruption, accountability, accessibility, equity and cost perspective, making those services more affordable for all.

The experience in ECA shows that even though the Government institutions are generating inordinate amounts of data, these are not used to inform policy making (and in some cases even lost irrevocably) because the institutions involved lack capacity and manpower to properly process and link them between subsectors and over time. For example, Gender information has been collected by most of ECA countries, as part of their IT systems, but gender disaggregated reports have not been produced or have not been used by policy makers in the rear cases, where such reports have been generated.

During the last several years the ECA land team has been raising awareness on the need for removing the barriers women and vulnerable groups – ethnic and linguistic minorities, the elderly, persons with disabilities – face in access to property rights, particularly in rural areas. Several studies in the Western Balkans show that women and men have equal status in law in relation to property and equal access to information, but in practice, the reports indicate that women face sizeable hurdles in relation to acquiring property. The limited evidence in the Western Balkans suggests that women’s positions with respect to property more closely accord with traditional practices than the equal standards established in the laws. For example the registered females in: Albania are 29%, in the Federation of Bosnia and Herzegovina – 25%, Bosnia and Herzegovina – Republica Strpska - 30%, Republic of Serbia – 39%, Kosovo<sup>1</sup> – 15%, Montenegro 26%, and former Yugoslav Republic of Macedonia (“FYR Macedonia”) – 17%.

*“Where constitutional or legal reforms strengthen the rights of women and place them in conflict with custom, all parties should cooperate to accommodate such changes in the customary tenure systems.” - VG par. 9.7*

The article presents a pilot FAO and World Bank capacity building initiative on Inclusive and Informed Land Administration in the Western Balkans. Seven teams from six countries, representing government policy makers and technical staff, non-government institutions and private sector, are working together to enhance and accelerate the process of moving to greater gender equality and social inclusion in the land sector, integrating the internationally agreed best practices, set in the Voluntary Guidelines into the existing programmes and projects.

## **II. GREATER THAN LEADERSHIP PROGRAMME FOR INCLUSIVE LAND ADMINISTRATION IN THE WESTERN BALKANS**

The World Bank Europe and Central Asia Region (ECA Land Team), the World Bank Institute (WBI) and the Food and Agriculture Organization of the United Nations (FAO) are supporting the implementation of a pilot Greater than Leadership Program on Inclusive and Informed Land

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<sup>1</sup> This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

Administration in the Western Balkans (GTL): Albania, Bosnia and Herzegovina, Kosovo, FYR Macedonia, Montenegro and Serbia, which has started in May 2013. The aforementioned program is being funded through the World Bank grant from the Umbrella Facility for Gender Equality (UFGE), budgets of land cadastre and registration ongoing projects in the region and FAO assistance. A steering committee composed of representatives of the WBI, the ECA land team and the FAO was established in February 2013 to manage the programme.

The Leadership Program was conceived to support the Land Reform and Administration projects that the World Bank has been financing in the region since the early 1990s and to help countries integrate the Voluntary Guidelines principals into the ongoing Government programs.

The program is aligned with the inclusion pillar of the Europe and Central Asia (ECA) regional strategy. By helping target countries formulating reform proposal to make land administration services more accessible to vulnerable groups, with a particular focus on women, the program help them closing the gender gaps in access to economic opportunities as well as meeting the remaining Millennium Development Goals. The program is also in line with the ECA Regional Gender Action Plan.

Key stakeholders were identified (e.g. Land Agencies, Ministries, notaries, NGOs) and letters were sent to invite them to create teams and produce reform proposals. Each country formed a team of 5 to 6 land tenure, gender, and social specialists - at least one government representative (senior government officials, policy makers, and/or policy analysts from relevant ministries) and one representative of civil society (leaders of community-based organizations and/or non-governmental organizations). Teams also include private sector actors such as notaries for those countries where the land market and protection of rights are facilitated through the private sector. The proposals had to define the problem they were trying to address, formulate an eleven-month reform proposal, describe what success would look like, identify key stakeholders involved in the implementation of their proposal and identify the top 4 constraints to successful reform.

The Program started with 5,5 day workshop, which aimed at providing information and guide the seven teams to develop a year long detailed implementation plan. The Voluntary Guidelines related principles and the Technical Guide – “Governing land for women and men” have been presented during the workshop to help countries to verify if their draft plans comply with the key principles and also to provide ideas on how to streamline the year long plans. The ECA land team and the FAO representatives worked closely with the country teams to improve the reform proposals. Issues raised included the discrepancies between the existing laws and customary practice and the need for gender disaggregated data, reporting and analysis to build up an evidence-based policy, limited legal and policy reform, publicity and education campaigns, trainings, awareness raising among officials, and services directed at women.

The evidence illustrating gender inequalities in access to land is overwhelming. Women across the world are consistently less likely to own or operate land; they are less likely to have access to rented land, and the land they do have access to is often of poorer quality and in smaller plots.

*“...As part of broader public information sharing, records of tenure rights should be available to State agencies and local governments to improve their services. Information should be shared in accordance with national standards, and include disaggregated data on tenure rights” (VG, par. 17.4).*

The need for producing and processing gender disaggregated data was one of the main messages conveyed by all of the Western Balkans countries reform proposals. Even though participants recognized that culture, traditions, lack of knowledge or understanding, and lack of self-confidence often lead women to renounce to their real property rights, they also underlined a systematic lack of information and data about this reality. Indeed, the production and use of such data is essential to formulate recommendations that could be officially adopted, for example, by the government or parliament.

#### **Teams’ objectives:**

- 1) **Serbia:** Registration services more accessible to people with disabilities and increase the number of women using registration services in one pilot municipality - Nis by 5 percent;
- 2) **Montenegro:** Increased awareness of rural population and land administration officers on the need for registering real property rights under the name of women in 6 municipalities.
- 3) **FYR Macedonia:** Increased number of women registered as property owners in the municipal cadastral office of Ilinden from 16 to 20 percent;
- 4) **Kosovo:** Increased number of real properties registered under the name of women or both spouses in two zones by 2 percent;
- 5) **Bosnia and Herzegovina, Repubc of Srpska:** Increased number of real property registration applications filled under the name of women and vulnerable groups in the municipality of Gradiska by 5 percent;
- 6) **Bosnia and Herzegovina, Federation:** Increased amount of cadastral data entered in 2 municipalities by 80 percent;
- 7) **Albania:** Increased number of women who access real property rights information in the local government units, notaries’ offices and Immovable Property Registration Offices of two pilot regions by 5 percent.

### **III. LAND AND GENDER – IMPROVING DATA AVAILABILITY AND USE IN THE WESTERN BALKANS**

*“States should establish policies and laws to promote the sharing, as appropriate, of spatial and other information on tenure rights for the effective use by the State and implementing agencies, indigenous peoples and other communities, civil society, the private sector, academia and the general public...” (VG, par. 6.5).*

All participating teams in the GTL Program identified the lack of interest and awareness of key stakeholders (e.g. senior government officials, land agency staff, notaries, men and even women) as being one of the largest obstacles to achieving their reform goals. They identified the lack of gender disaggregated data and robust studies as being another major obstacle to convince the key stakeholders and guiding actions. Both issues are closely related as availability of such data is an instrument to convince those who do not see women’s access to real property rights as being an issue and, therefore, are currently unlikely to support the execution of the reform proposals.

Innovative technology applied to land records and graphics improves knowledge based decision making and widens means for data dissemination and access to land records. Gender disaggregated data could be obtained from the land administration IT systems, in case of:

- 1) Such data are collected as part of the customers’ applications;
- 2) Such data are part of other data, collected by the land agencies, such as personal identifier, TAX number, Social Security Number;
- 3) Linking property register with government register, containing gender information, such as Civil/population register, TAX register, Companies Register;
- 4) Using names to identify the gender

***What kind of Gender disaggregated reports could be produced?***

#### **A. % of women owning properties**

1. % of Women owning 100 % of properties
2. % of Women owning 50-99 % of properties
3. % of Women owning less than 25 % of properties

Report 1. % of women owning properties, as per 1-3 above at national and regional level with possibility for selection of a period of time to demonstrate the dynamics and to allow analyses of efficiency of one or another measures implemented.

## **B. % of women, who inherited properties/sale-buy/take mortgages**

1. % of Women owning 100 % of properties
2. % of Women owning 50-99 % of properties
3. % of Women owning less than 25 % of properties

Report 2. % of women who, properties/sale-buy/take mortgages, as per 1-3 above, at national level and regional level with possibility for selection of a period of time to demonstrate the dynamics and to allow analyses of efficiency of one or another measures implemented.

The results could be linked to the spatial data to present the most critical geographic areas.

In case of Birthday data available, Youth disaggregated data could be generated, as well as combined Gender and Youth disaggregated reports.

### **Key issues:**

- 1) **Data quality** – Since all the data originate from old Land Registry records and due to a relatively recent transfer into electronic form data are incomplete, not all the records contain gender information, as it has been introduced at a later stage, but still the dynamics' could be monitored and actions planned to complete the missing information.
- 2) **Lack of capacity to use the produced disaggregated reports** and to build up evidence-based policy.

In order to increase the capacity of the Western Balkans teams to generate and use gender disaggregated data to advocate for change and promote policy dialog, the FAO and the World Bank ECA land team have prepared and submitted for approval a project proposal: *Land and Gender – Improving data availability and use in the Western Balkans* under the World Bank UFGE grant, primary pillar: Increasing availability of gender-relevant data and evidence by serving as a catalyst for innovation and investment in frontier issues (e.g. voice and agency) and in areas with persistent gaps. The project has been approved for financing in July 2013.

All participating countries collect Gender data, as part of their land administration IT systems:

- 1) In Kosovo and Albania Gender information is collected, as part of the customers' applications;
- 2) In Bosnia and Herzegovina, FYR Macedonia, Montenegro and Serbia Gender information is part of the customers' unique identification number.

### **Final outputs:**



1. Gender disaggregated reports produced and published in each of the target countries;
2. Recommendations on how to improve data quality in each of the target countries;
3. Training materials on the use of gender disaggregated data for raising awareness;
4. GTL teams trained on the use of gender disaggregated data for the awareness-raising.

The produced gender disaggregated data will be used to increase awareness of the benefits of improved gender equality in real property ownership, will serve as a catalyst for innovation and investment, and will increase the involvement of the so-called “Third Sector” of non-governmental and local organizations, including those representing women.

Various examples of gender disaggregated data are provided at the end of the article.

#### **IV. USING GENDER DISAGGREGATED DATA FOR EVIDENCE-BASED POLICY MAKING**

In this section there will be a brief country report,<sup>2</sup> a synthesis of the findings, lessons learned, and recommendations.

##### **1) Bosnia and Herzegovina, Federation (FBiH)**

Gender-based discrimination is prohibited in an annex to the peace agreement establishing BiH, and is an integral part of the constitution. The environment with respect to gender is changing rapidly in BiH particularly in light of the attention accorded to gender in the Stability Pact and in the EU accession process (Stanley n.d.).

##### ***Legal Framework for Women’s Land Rights***

The Law on Gender Equality adopted at the State level promotes and protects gender equality, guarantees equal opportunities to all citizens, and prevents discrimination based on sex (Stanley n.d.).

To monitor implementation of this law, a Gender Agency was established in February 2004 within the state Ministry for Human Rights and Refugees. The Gender Center of the Federation of Bosnia and Herzegovina and the Gender Center of Republika Srpska were both established in 2000. The objective of the Gender Centers is to promote gender equity and equality, and to implement gender equality principles contained in international conventions and agreements.

In BiH, marital property is property that was acquired after the marriage took place and is obtained using income from the labor of the marital community.

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<sup>2</sup> Longer country reports are available for each country.

The personal property of a spouse is property that he or she brought to the marriage (owned prior to the marriage). Personal property also includes property acquired after marriage, but not through the labor of either person in the marriage.

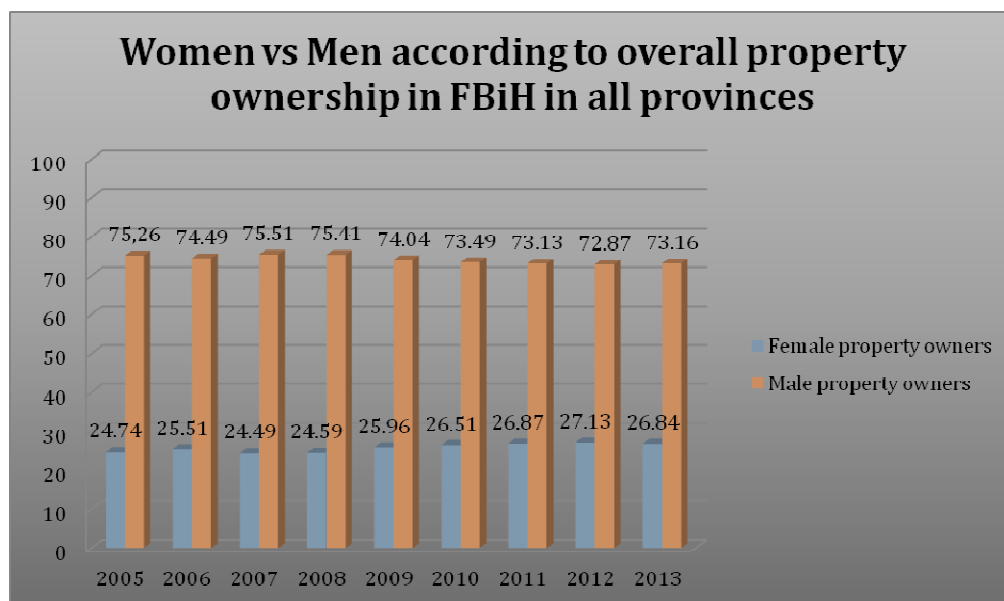
Both daughters and sons inherit equally and spouses also receive a share under the intestate law.

### ***Enforcement of the Legal Framework***

The legal framework is on its face gender neutral, but in practice, traditionally women marry and move to their new husbands' homes, so that the marital home, under the law, would be the personal property of the husband and not held as marital property.

A bigger issue related to women's property rights, however, is the status of women in society. According to IFAD's coordinator of the Gender Mainstreaming Programme for Central and Eastern Europe and Newly Independent States, "After the war, the breakdown of social cohesion and the downward spiral into poverty was particularly hard on women,—When family benefits and public social services were decreased, women's social standing in society plunged. There was *a return to more traditional attitudes towards gender, and* women who once held prestigious positions in public life are now often expected to stay home engaged in domestic duties" (Kurbanova, 2011).

**Country Level Data:** Gender disaggregated data have been generated from the property registry in all municipalities for the past nine years. Approximately 25% of all property is held by women in the FBiH versus 75% held by men. The percentage of property registered to women has grown slightly in the past 4 years, but in 9 years there has been little change.



The data above capture all registered right holders, no matter if they own 100% of a property or 5% of a property. However, breaking this data down by looking at how much of one property women own and where women own an equal or controlling share is the next level of analysis.

**Local Level Data:** In Sarajevo in 2013, for all the property in which one person owns half or more of the property (enough to have a right to equal control over the property), women own half or more in approximately one-third of the cases and men own half or more in approximately two-thirds of the cases (Chart 5-2).

On the other hand, in Cazin, a rural province, for all the property in which one person owns half or more of the property, women own half or more in approximately 17 percent of the cases and men own half or more in approximately 83 percent of the cases—a significant difference (Chart 5-3).

These two charts point out very different scenarios for women, and it is clear that much more effort would need to be placed on communicating the legal rights of women and the value of women having documented rights to land in Cazin than in Sarajevo. It is more likely that custom plays a role in Cazin, thus the messages to beneficiaries and implementers need to be focused on behavior change examining the customs and cultural norms and discussing how these norms may limit women’s ability to engage in economic decisions.

***Recommendations***

Taking together the social assessment findings in 2005, the positive legal framework, and the limited change that has occurred in property ownership since 2005, it is clear that behavior change communication is required, both in urban and rural areas, but rural areas have a much larger gender gap.

## **2) Bosnia and Herzegovina, Republika Srpska**

The Republica Srpska is one of two political entities in Bosnia and Herzegovina. The other entity is the Federation of BiH. The Constitution of RS defines it as a territorially unified, indivisible, and inalienable constitutional and legal entity of Bosnia and Herzegovina that independently performs its constitutional, legislative, executive, and judicial functions.

### ***Legal Framework for Women's Land Rights***

The Law on Gender Equality was adopted at the State level and has the goal to promote and protect gender equality and guarantee equal opportunities to all citizens and prevent discrimination based on sex. A Gender Center of Republika Srpska (RS) was established in 2000. However, limited progress has been made in harmonizing Entity and Cantonal laws with the state-level Law on Gender Equality. Institutional mechanisms for ensuring gender equality continue to face resource constraints (Shadow 2013). The Family Law is similar to BiH in that property acquired through work after marriage is presumed to be marital property and property acquired outside of marriage or through inheritance or gift is presumed to be personal property.

### ***Enforcement of the Legal Framework***

While the law advocates for gender equality, in practice women have fewer resources than men.

**Country Level Data:** In 2013 and over the past nine years, women have owned about 30% of all property while men have owned 70% of all property. The percent of mortgages taken by women ranged from approximately 17% in Derventa to approximately 41% in Prijedor.

**Local Level Data:** The breakdown by municipality indicates that there are fewer women who own half or more of each registered property in rural areas than in urban areas, with one exception, Derventa. The three municipalities with over 30% of all land held by women who own between 50 and 99% of land are: a district in Sarejevo, Gradiska, and Banja Luka.

Derventa has the largest amount of property owned by women who own between 50-99% of each property (38%) and the lowest percent of women who have used property as collateral (14%) by taking out a mortgage.

The two municipalities with the least amount of property owned by women who own between 50-99% of land are both rural and next to each other in the eastern part of the state. They also have the least amount of property owned by women as sole owners, and are near the bottom for women who have mortgage property.

The municipality with the second largest city, Bijeljina, is at the bottom in terms of the amount of property owned by women who own between 50-99% (the very last), but second from the top in terms of the amount of property held by women who are sole owners.

### ***Recommendations***

There are large differences in women's property ownership between municipalities in Republika Srpska and differences that require further inquiry. There are two municipalities that stand out as being least favorable for women's property ownership.

### **3) Republic of Serbia**

Serbia adopted the National Strategy for Improving the Position of Women and Promoting Gender Equality in February 2009. One priority of the strategy is to eradicate "economic inequalities between women and men, elimination of direct and indirect discrimination and more effective use of women's resources in socio-economic development" (Statistical Office of the Republic of Serbia 2011).

#### ***Legal Framework for Women's Land Rights***

The Law on Gender Equality (2009) covers employment, health, education, sports, political and public life, and calls for special measures to "to eliminate and prevent the unequal status of women and men and accomplish equal opportunities of both sexes," (Art 7). It also binds all public authorities to actively pursue equal opportunity policies.

The Family Law (2005) states that separate property is property acquired before marriage or during marriage as inheritance, or gift, or other legal operation (Art 168). However, if during the marriage the value increases, the other spouse has a right to a monetary claim in proportion to his/her contribution or a share in the property (Art 170). Joint property is property the spouses acquired during marriage through work (Art 171).

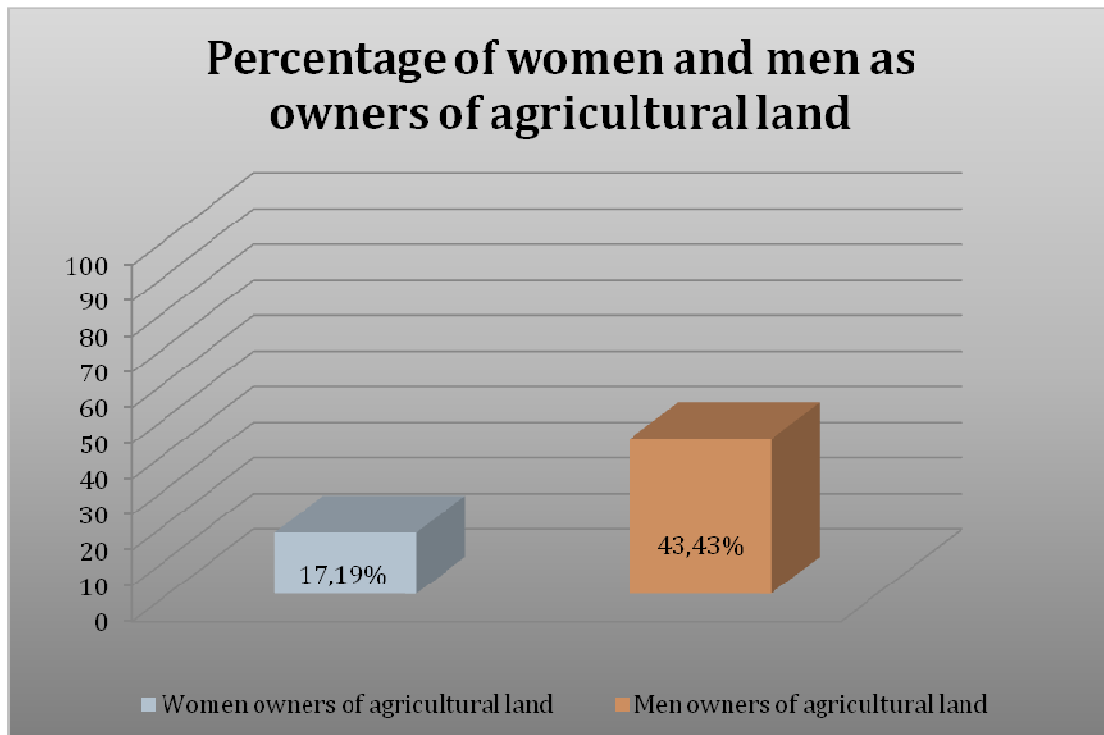
The Inheritance Act (2003) provides for equal inheritance for sons, daughters, and spouses.

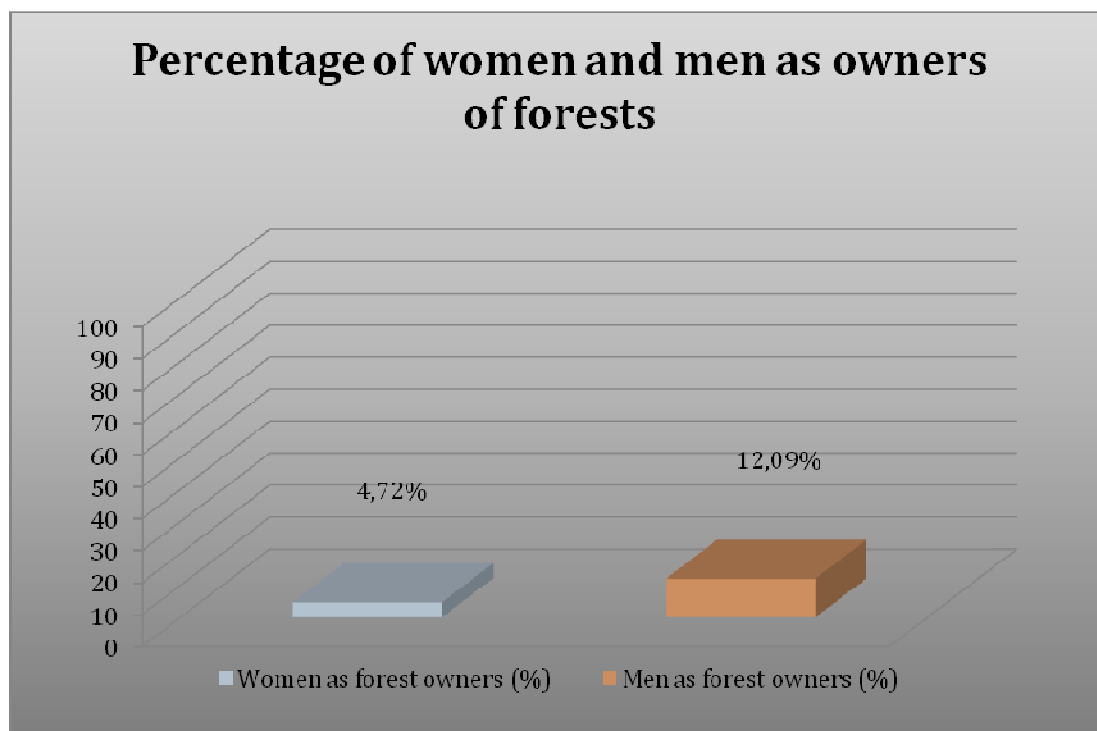
#### ***Enforcement of the Legal Framework***

**Country Level.** The gender disaggregated data have been generated from the property register in all individual provinces in the Republic of Serbia. According to the data collected, men own approximately 3/5 of all property, and women own approximately 2/5 of all properties (Chart 7-1). The data also indicate how women and men obtained property—through inheritance, gift, or purchase. The pattern for acquisition is fairly similar to the pattern of ownership for both inheritance (64% to 36%, Chart 7-5) and gift (65% to 35%, Chart 7-6). However, for purchase, women and men are much closer together, with women holding 43% of all property purchased and men holding 57% of all property purchased (Chart 7-7).

The amount of land inherited by men and women and gifted to men and women may indicate that inheritance and gift practices continue to follow tradition, and education of local officials and beneficiaries about the legal framework may increase the amount of land women inherit or are gifted.

Also available in Serbia are data about the types of property registered in each municipality. Looking at two types only, agricultural land and forest land, each chart displays the percentage of land that is agricultural land (or forest land) and held by women and the percentage of land that is agricultural land (or forest land) and held by men.





Here the gap between men and women is greater, so focusing on areas of agricultural and forest land and understanding the customs in those locales and the reasons for women's low levels of ownership would help guide next steps.

**Mortgages.** Men hold 67% of mortgages and women hold 33% of mortgages country-wide (Chart 7-2).

**Local Level.** The most property held by women in 100% ownership (30-45%) is in the urban part of Serbia with the most developed cities (7-1). Interestingly, women hold less than 15% of property in 50-99% ownership in every municipality in the country (7-2).

For agricultural land, for each of the two rural municipalities on either side of the City of Belgrade, women own less than 15% of the agricultural land. It is possible that the land near the city is more valuable and therefore less likely to be in the hands of women, but understanding the reason for women's low level of ownership in these two municipalities would help determine how to make changes.

#### ***Recommendations***

The main issue in Serbia is the traditional view of property ownership and women. A focus on behavior change, education, information, and transparency is required. In addition, a better understanding of some of the variations in ownership would help guide which activities will yield the best results.

#### **4) Montenegro**

Montenegro officially declared independence on June 3, 2006. The Government of Montenegro (GOM) has made European Union (EU) accession a central priority for Montenegro's future; Montenegro signed the Stabilization and Association Agreement with the European Commission in March 2007 and was granted candidate status in December 2010.

##### ***Legal Framework for Women's Land Rights***

The Constitution of Montenegro guarantees the right to property and inheritance, as well as entrepreneurship. In 2002, the Government of Montenegro established a Gender Equality Office that directly reports to the Prime Minister. The Office prepared a Law on Gender Equality which was passed in 2007 and provides for gender equality and elimination of discrimination based on sex (Stanley n.d.).

The Law on Gender Equality goes far beyond requiring equal treatment of both sexes. It calls for elimination of direct and indirect discrimination and allows for "special measures. . . to remove existing obstacles that bring about non-balanced representation of women and men or unequal status of persons of one sex in relation to the person of another or give special benefits in a sense of encouragement persons of underrepresented sex." It also requires "All statistical data and information collected, registered and processed by the organs, business companies and other legal persons as well as entrepreneurs must be gender disaggregated (Art 14).

The Family Law allows for separate and joint property for married couples. Separate property is property that a spouse obtained before marriage, as well as the property obtained during marriage by inheritance or gift (Art 286). However, if during the marital community there was a slight increase in the value of the separate property of one spouse, the other spouse shall have the right to claim in money the amount proportional to his/her contribution, or a right to a share of the property which would be proportional to his/her contribution.

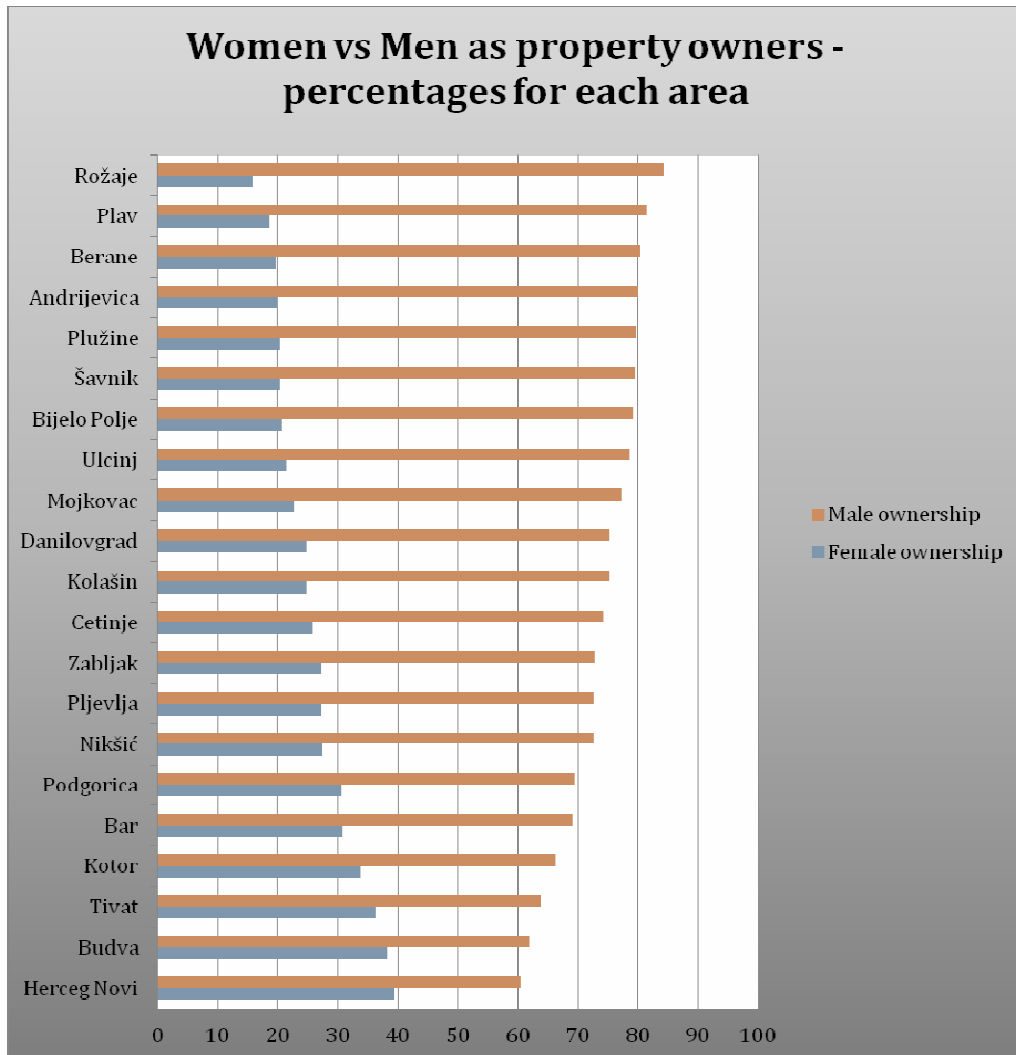
Joint property consists of the property that spouses gained by their work during the marriage, as well as the incomes from that property. The income from the separate property gained by work of the spouses are incorporated into the joint property (Art 288).

##### ***Enforcement of the Legal Framework***

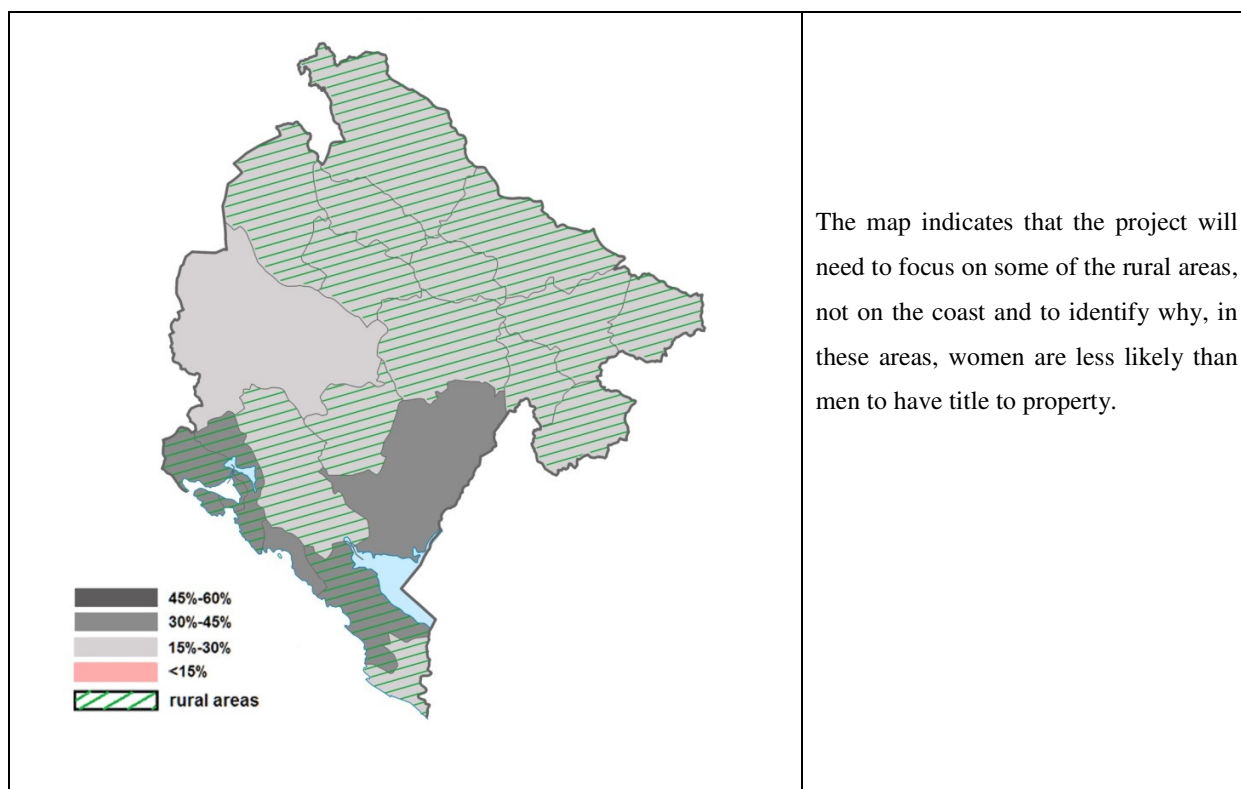
In spite of the very positive and progressive legal framework, women have documented rights to far less property than men.



**Country Level Data:** Across the country, women own approximately 25% of property and men own approximately 75%.



**Local Level Data:** The municipalities with the smallest amount of land owned by women are rural and in the north east, bordering Kosovo. In Rožaje, Berane, and Plav, women own less than 20% of the land. On the other end of the spectrum, in Herceg Novi, on the Adriatic Sea, Women own nearly 40% of land.



**Mortgages:** According to an analysis published by Montenegro Statistical Office (MONSTAT) in March 2012, only 9.6 per cent (2,025 in 2011) of business entities are owned by women, while 90.4 per cent (19,102) of businesses are in men’s ownership. The lack of access to finance is the main barrier for both women and men entrepreneurs. Still, Montenegrin women less often use commercial loans to start business than men, primarily because only 6 per cent of women are owners of a property which can be used as collateral to get a business bank loan (MEF 2013). UNDP research on potential female entrepreneurs in Montenegro (published in 2012) also points out that the access to finance is one of the biggest barriers for starting business (MEF 2013).

According to sex disaggregated data in all municipalities from 2013, women held approximately 15% of the mortgages, while men held 54%. In 30 percent of the cases, we were unable to know, from the records, if the person taking the mortgage was male or female. Tivat, on the Adriatica, is near the top for female ownership (36%) and is at the top for female mortgages (30-45%). All other municipalities fall in the range of 0-30% mortgages for women.

***Recommendations***

Focusing on educating women and men about women's rights to property, especially in rural areas and areas with low levels of female ownership, would be an appropriate and useful strategy in Montenegro.

### **5) FYR Macedonia**

Macedonia gained its independence peacefully from Yugoslavia in 1991. Macedonia became an EU candidate in 2005.

#### ***Legal Framework for Women's Land Rights***

The Law on Equal Opportunities of Women and Men provides for equal treatment and opportunity for women and men.

Macedonia's Family Law explicitly provides for equality between men and women within marriage and family relations, and the Law on Inheritance explicitly stipulates that men and women have the same rights to inheritance.

There are several positive provisions in the Family Law that protect women's rights to own property. Article 59 states that "when an item is held in joint ownership, the right to own it is not affected by whether or not the joint owners name is in the property register." Thus, although preferably a woman's name would be included in the registry as a joint owner, not including her name is not proof that she does not have rights to the property. Article 61 specifically gives each joint owner the right to request his or her name be in the registry.

As in the other countries in the Western Balkans and most of Western Europe, marital property can be joint or separate (Art.66). The presumption is that property acquired during marriage is joint ownership (Art 67), but inherited or gifted property can be one spouse's separate property (Art 68).

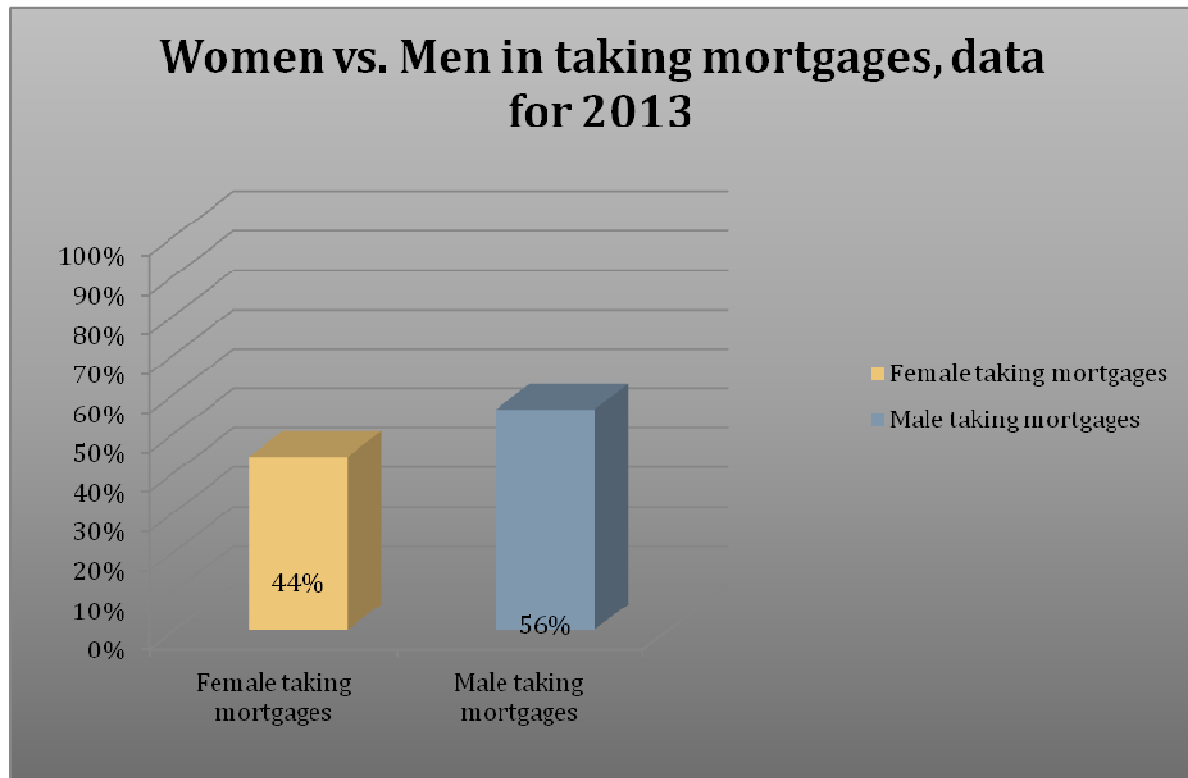
#### ***Enforcement of the Legal Framework***

In Macedonia, discriminatory customs, traditions, and stereotypes are widespread and undermine women's basic rights, especially those of women in rural areas. Daughters in Macedonia rarely inherit land, rather they concede their right to their brothers to keep peace in the family. The family is the source of women's welfare, so many wives and daughters will not insist on claiming their share of property or having their names on property titles (Sourcebook 2009). Women often lack information about their rights, and do not know which services to use to get advice.

**Country Level Data:** Women in Macedonia own approximately 17% of all property while men own approximately 83% of all property.

**Local Level Data:** There is no difference between rural and urban areas in FYR Macedonia, and less than 15% of women own any amount of property (from 100% of a property to less than 25% of a property) in any part of the country.

However, even with these low levels of property owned by women, there is only a 12% difference between the number of women and men who use their property as collateral.



This indicates that the difficulty is in women gaining title to property, but once women have this title, they are able to make decisions and engage in economic transactions. Thus, cultural norms against women as economic actors may not be strong, but there are other reasons for women's lack of documented rights to property. Understanding why women are not engaging in registration but are using property as collateral will be critical for messages developed.

### ***Recommendations***

Further information that could be gathered would show in which municipalities mortgages are being taken and whether those municipalities are the same for men and women. Also, as the specific office has been chosen for increased registration, additional data can be collected, focusing on that municipality.

Educating and supporting the institutions established by law to support gender equity on women's lack of property rights and potential avenues for change could have a sustainable impact.

## 6) Albania

Privatization of land in Albania officially began in 1991 with the land reform law. Each rural family received a portion of the land based on the size of their household. (Stanley n.d.).

### *Legal Framework for Women's Land Rights*

The Civil Code, adopted in 1991, affirms the right of “all citizens to own and inherit property.” However, Article 224 states that the family farm will be represented by the “head” who will be elected by the family. The farm family’s property includes property gained by a member's personal income, donation or inheritance (Art 225).

The default marital property regime is community property, and it is applicable unless a contract has been signed by both parties designating another arrangement (Family Code, Art 73). Personal assets that are not considered part of the marital estate include assets owned prior to marriage and owned jointly with another person, assets acquired during the marriage through inheritance or gift, assets for the personal use of each, as well as several others (Family Code, Art. 77).

### *Enforcement of the Legal Framework*

Women are disadvantaged by the law, which allows registration of family farm land in the name of only one person, typically the male. Even aside from the law, traditionally the husband is thought to represent the wife when property is registered in the name of the household.

Younger women are increasingly more aware of their rights, and the procedures and institutions in which to establish these legal rights. However, there are still many well educated women in urban areas who are not familiar with their rights to land and property and do not enforce them (Stanley n.d.).

**Country Level:** In Albania, it is difficult to get a full picture of where things stand in terms of amount of land held by women and men because most of the earlier records did not designate the sex of the applicants. Sex could only be identified in 12% of the records.<sup>3</sup>

**Local Level:** However, currently, the sex of the applicant is collected when a new application is created; the front office specialist enters the sex (male or female) of the applicant. The registrar cannot move beyond this screen if this field is not filled in. Thus, the registration offices were able to review the daily applications by sex and by district office for 2013. They were able to capture what types of applications were filed and the sex of the applicant.

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<sup>33</sup> Please see the full technical report with the sex disaggregated data.

The data from ALBSReP (Real Estate Electronic Database administered by the Immovable Property Registration Office) show that in 2013 women most often requested that a certificate be re-issued or ownership verified, while male applicants most often requested registration of property sales. In Tirana, out of a total of 71,311 applications (all types) in 2013, 53,255 were male and 18,056 were female. In Fier, another urban area, out of a total of 5179 applicants, 4326 were male and 853 were female (see chart 8-5).

The current administrative procedures for registering/legalization of property rights, includes registering the land in the name of the head of household only, most often a male. In Tirana, in 2013 there were 2399 male applicants for legalization/registration of property and only 384 female applicants (Chart 8-7). Women's most common obstacle to starting a business is limited access to credit and lack of collateral.

### ***Recommendations***

There are several legal changes that would enable and encourage women's names to be listed on documents. The Civil Code provision related to one household member representing the whole family for a family farm and the administrative procedure for legalization of property rights that requires registration in the name of the head of the household only are two key examples.

## **7) Republic of Kosovo**

Kosovo<sup>4</sup> is one of the newest countries in the world. It achieved independence in 2008 and emerged from international supervision in 2012. In spite of laws that promote equality between men and women, *Kosovo has lower rates of business and property ownership for women than other former Yugoslav successor states* (Joireman, forthcoming 2014).

### ***Legal Framework for Women's Land Rights.***

There are three key laws protecting women's property rights in Kosovo: the Law on Gender Equality; the Inheritance Law; and the Family Law. Two provisions in the legal framework make equality of ownership between men and women difficult to achieve *given the strong influence of customary law*. First, the Family Law includes in the definition of separate property, property that belongs to the spouse at the time of marriage and property acquired during marriage through inheritance, donation, or other forms of legal acquisition (Art 46). While this is a common provision in the civil laws of Western Europe, because a

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<sup>4</sup> This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

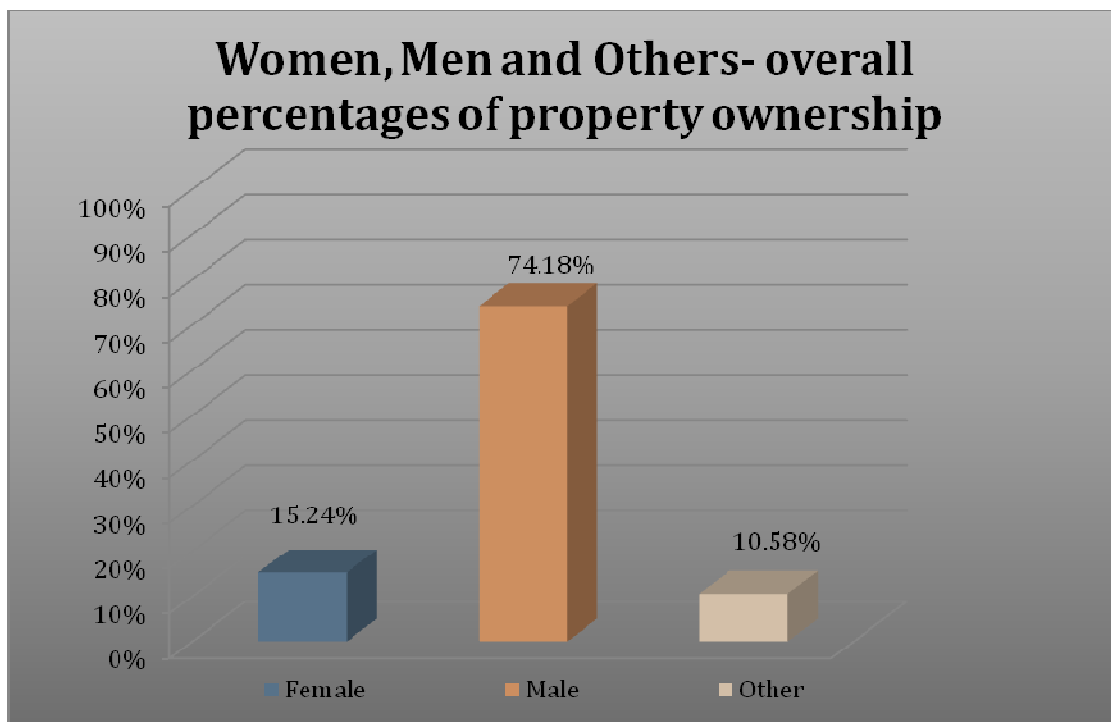
majority of Kosovars continue to practice traditional patrilineal and patrilocal inheritance practices, women will most frequently not have a joint right to their homes or surrounding property because that will be the separate property of their husbands under this law.

Second, the inheritance law provides for 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.” Although the provision for the renunciation of inheritance rights is a standard part of most inheritance law, it is rarely used. However, in Kosovo it is frequently used by female inheritors to ‘refuse’ or ‘resign’ their inheritance rights to increase the percentage of resources left to their brothers or sons (Joireman, forthcoming 2014).

### ***Enforcement of the Legal Framework***

**Country Level.** Gender disaggregated data have been generated from the property register for all 35 municipalities. Of those, in 19 municipalities women own greater than 15% of all property, and in 16 municipalities, women own less than 15% of all property.

Overall, women own 15.2 percent of all property.



**Local Level.** But that amount varies significantly from 7.3% in Glllogoc to 30.1% in Mitrovicë Veriore. These differences are important to understand and can help determine where to work and what is needed to increase women's property ownership in areas where less land is in the hands of women. To increase the number of women in Glllogoc who have title to land, it will be important to know whether or not customary law is followed there. For example, the Albanian tradition includes a written customary law that provides for both patrilineal inheritance and patrilocal residence. Traditionally, houses and land are held in the name of the oldest male relative and several generations live within one household (Joireman, forthcoming 2014).

The patrilineal inheritance and patrilocal marriage practices mean that it is difficult for either daughters or wives to claim rights to land. Daughter's move away and may consider claiming their legal share of property to be taking it away from their birth family or the eldest son, and wives do not jointly own property inherited by their spouse under the law.

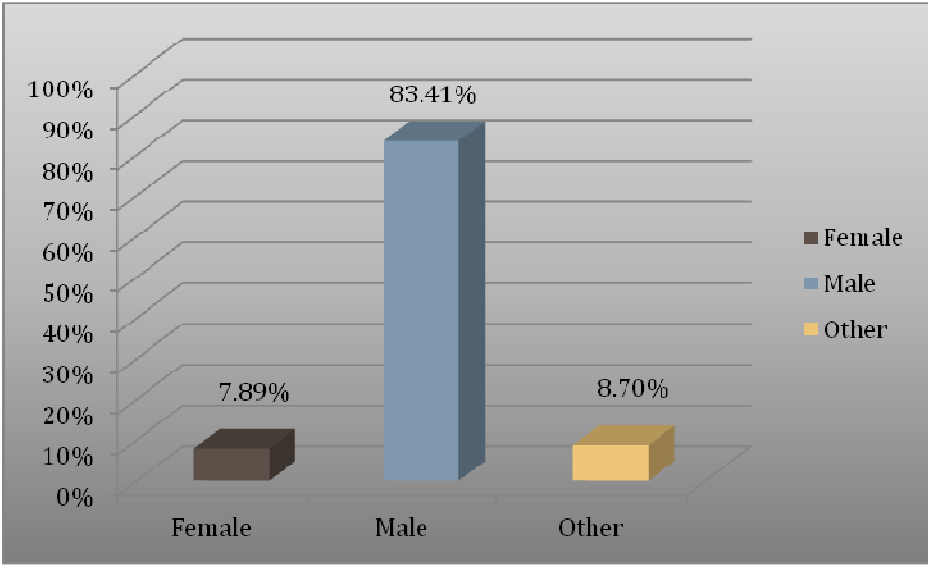
Tradition also most likely plays a role in the large number of women who renounce their inheritance. There is anecdotal evidence that local courts will affirm what are obviously coerced refusals of rights, such as those coming from minor children (Joireman, forthcoming 2014). Women are skeptical of the gender sensitivity of judicial institutions when dealing with cases pertaining to property and inheritance (Vuniqi and Halimi 2011: 48).

Even if female heirs can get recognized by the courts, in civil decisions in Kosovo, it is required to start a second court process in order to have the decision implemented and added burden of expense, time, and emotional distress.

### ***Mortgage***

Unlike the other Western Balkan countries, in Kosovo women also mortgage their property much less often than men. In the other countries, even when the amount of land women own is low, the number of mortgages is proportionally higher. However, in Kosovo, men use their property as collateral more than ten times more than women.





*Kosovo's low rate of business and property ownership is illustrated below (Joireman, forthcoming 2014):*

	Percent of Firms with Female Ownership, 2009
Kosovo	10.9
Macedonia FYR	36.4
Montenegro	26.0
Serbia	28.8
Bosnia and Herzegovina	32.8

Understanding why women do not use property as collateral may help determine what issues women face in registering their property and in engaging in transactions or using their property to further their economic goals.

***Recommendations***

For women to have secure rights to land, those rights must be both legally and socially legitimate, and they must be enforceable. For women to have socially legitimate rights to land, some changes may need

to occur in Kosovo. To be enforceable, women must be aware of their rights, have the ability and the means to present their claim, and a belief that a fair decision is likely, and that the resulting decision will be implemented. Both of these key components of secure land rights require education and training of women, their families, program implementers, government officials, and judges and lawyers. Awareness raising is critical to removing barriers to women's access to land information within land sector projects and reforms and throughout all the processes and institutions of land tenure governance (FAO, 2013).

## **V. LESSONS LEARNED**

In the countries reviewed in this paper, the goals mostly center on increasing the number of women using registration services or having their name on titles and increased awareness of both beneficiaries and officials of the need for registering property rights in the name of women. In 2013, the percentage of property owned by women nationwide ranged from 15% to 36% around the Western Balkans countries, covered under the project. Looking at the gender disaggregated data at local level (cadastre municipalities) the percentage of property owned by women ranged from 3% to 48%.

The data can help identify areas of the country where women are more or less likely to have property registered in their names and can help identify areas where women are more likely to hold half or more of the rights to their property versus areas where women are likely to hold only a small share of property. Once identified, a deeper assessment of the situation for women and men in that municipality will help ascertain what specific barriers exist for women and how they might be overcome. Communication campaigns can focus on these barriers.

Below is a summary of findings.

### ***Legal Framework for Women's Land Rights***

All countries reviewed had enacted laws related to equality of property rights. However, there are legal changes that might be made in some countries that would help increase the amount of property registered in women's names. In Albania, for example, the law and regulations permit and encourage property to be registered in the name of the head of household. Additionally, all countries allow for both separate and community property for spouses or those cohabitating. For all countries, separate property includes property inherited by one spouse.

However, in Montenegro and Serbia, the spouse who did not inherit the property but does contribute to it over time has a right to some monetary or property interest. For patrilineal and patrilocal societies, which

all of these countries are, this legal provision would provide women with some security in the family home if that home was inherited by her husband.

Also, most countries state directly that property rights should be registered, but also that if they are not, the right is not extinguished. Macedonia additionally in law specifically gives each joint owner the right to request his or her name be in the registry.

Finally, several of the countries have set up gender institutions to further gender equality. The Government of Montenegro established a Gender Equality Office; BiH established a Gender Agency in February 2004 within the state Ministry for Human Rights and Refugees. The Gender Center of the Federation of Bosnia and Herzegovina and the Gender Center of Republika Srpska were both established in 2000. The objective of the Gender Centers is to promote gender equity and equality, and to implement gender equality principles contained in international conventions and agreements. These institutions can be partners in the effort to encourage and ensure that women's names are on titles to property.

### ***Enforcement of the Legal Framework***

Most of the countries showed significant variability in the amount of land women owned from municipality to municipality. Sometimes, as in Montenegro, the areas with the most female ownership were all either in or near the capital or on the coast and areas with the least female ownership were rural and clustered near the border with Kosovo. In Republika Srpska there was large variation between municipalities but with no clear pattern. In FBiH, the two municipalities for which data was collected over time showed a clear difference between the capital city (Sarajevo) and a rural area (Cazin).

In Macedonia, on the other hand, there is no difference between rural and urban areas and less than 15% of women own any amount of property (from 100% of a property to less than 25% of a property) in any part of the country. However, even with these low levels of property owned by women, there is only a 12% difference between the number of women and men who use their property as collateral.

In Serbia, according to the data collected, men own approximately 3/5 of all property, and women own approximately 2/5 of all properties. As to how property was acquired, women hold 43% of all property purchased and men hold 57% of all property purchased, but have significantly less property acquired through inheritance or gift.

## ***Recommendations***

The recommendations in the individual country reports refer to the technical guide, *Governing land for women and men*, aims to assist implementation of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*<sup>5</sup> (Daley and Park, 2013). The technical guide addresses each of the recommendations made in this paper and provides checklists and ideas for how to achieve those recommendations.

### **Recommendations for using sex- disaggregated data**

Sex disaggregated data on land rights is critical to understanding the extent of women's rights to and control over land in practice. A UN-Women policy paper *A Transformative Stand-Alone Goal on Achieving Gender Equality, Women's Rights and Women's Empowerment: Imperatives and Key Components*, stated "Control over, and ownership of, assets can provide women with greater protection and stronger fallback positions, enhancing their bargaining power within the household and their capacity for economic independence. Sex-disaggregated measures of land ownership and access to credit would reveal the extent of gender disparities in the control over, and ownership of, assets and could support targets aiming to equalize sole or joint ownership of control. While this information is currently only available for a small number of countries, efforts are underway to develop and agree at the international level on methodologies for collecting and harmonizing these data."

The data collected for this report is important for understanding what is happening on the ground. In the background research for each country, at least one report mentioned that we do not know whether the progressive law that is in place is working—we have no data. Each of these countries has recognized that there is a gender gap in economic opportunities, that women have more difficulty getting credit, and that men are more likely than women to have documented rights to land. The data bear out those assumptions.

The data that is most broadly useful and of particular importance to the country monitoring system for gender equality is country-level data related to the amount of property titled in the name of women and amount of property titled in the name of men. This data provide a country snapshot and can be used to flag whether or not there is a gender gap in property ownership, a key economic input. This is also the type of data that will be required to be collected if property rights are part of the Millennium

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<sup>5</sup> Both the Voluntary Guidelines and the Technical Guide have been translated in Albanian language by the UN Women office in Albania and will be published shortly.

Development Goals for post-2015. The analysis over a period of years is a useful tool for monitoring progress.

For understanding the situation within a specific country, there are several types of data that is particularly valuable. Table 5.4.3, which shows for each municipality: the percent of property owned by women (100%, 50-100%, 25-50%, and > less than 25%) and the percent of mortgages taken by women is helpful for identifying areas of the country where women own a small percentage of the land or a large percentage of the land, thus areas of interest in terms of problems or successes. Four data points may not be needed, however, so perhaps for less than 50%, one representative statistic would be enough, for example, less than 15 or 25% ownership

Municipal-level mortgage data (Chart 6-2) showing percentage of women and men taking a mortgage in each municipality is beneficial for understanding women's ability to use property as collateral—a key component of increased economic activity.

Identifying percentage of women and men owning specific types of land (agricultural, forest) and identifying percentage of women and men obtaining property through sale, inheritance, or gift, provides detailed information for public information campaigns. Low numbers would indicate a need for further analysis, but would tell the land offices where to begin training and education campaigns and what topics to cover for improved results. To be used in that way, the data would need to be collected at the level of the municipality.

Sex disaggregated tracking of new applications (Chart 8-6) would help with monitoring how the system is working and pinpoint gender gaps with some specificity.

**The Global Land Indicator Initiative** proposes the following indicators for consideration by Member States and stakeholders:

- Percentage of women and men, communities and businesses that perceive their land resources and property rights are recognized and protected
- Percentage of women and men, indigenous peoples and local communities and businesses with legally recognized evidence of tenure
- Extent to which the national legal framework provides women and men equal rights to land resources and property.
- Extent to which the national legal framework recognizes and protects legitimate land rights and uses derived through a plurality of tenure regimes

The first two indicators are outcome indicators and therefore capture the combination of conditions that have to be in place for women and men to be tenure secure. They are sex-disaggregated and therefore allow for a gender-sensitive analysis of the situation and of any progress achieved. The first indicator refers to individuals' perceptions (capturing some intangible factors such as household dynamics that can affect to what extent individuals experience their rights to land in reality) and the second one captures institutional responsiveness to individuals' (this places responsibility on the system, which is what the goals are trying to influence).

We would advocate for communities and businesses to be considered independently because they are aggregate units, and the data related to them may be captured based on the whole unit rather than considering the individual--women and men in the community or business. For women, this would be the equivalent of capturing household data rather than individual data, and we know that household level data does not capture women's rights within the household. As long as we consider all women and men in the indicators proposed (regardless of whether they live under community-held land or they run a business), we will be able to answer whether and to what extent women and men are tenure secure.

Indicators 3 and 4 are input indicators and therefore miss important factors. That is, meeting those conditions might be necessary but it is certainly not sufficient for individuals to be tenure secure. Furthermore, it is highly unlikely that the post-2015 agenda will include more than one or two land-related indicators and therefore if we put more than one or two indicators forward we risk confusing the message, diffusing the efforts and eventually failing to have any one of the indicators adopted. For these reasons, I support moving forward only the first two indicators.

### ***The Voluntary Guidelines***

The Voluntary Guidelines (FAO 2012) specifically related to land registration and gender equality include:

7.4 States should ensure that women and men enjoy the same rights in the newly recognized tenure rights, and that those rights are reflected in records. ... Locally appropriate approaches should be used to increase transparency when records of tenure rights are initially created, including in the mapping of tenure rights.

11.6 States should establish safeguards to protect the legitimate tenure rights of spouses, family members and others who are not shown as holders of tenure rights in recording systems, such as land registries.

17.3 States should strive to ensure that everyone is able to record their rights and obtain information without discrimination on any basis.

There are three main points here, and all three need to be communicated to both beneficiaries and implementers of land titling and registration.

- (1) Rights to land should be equitably distributed and recorded.
- (2) If those rights are not recorded, they should still be enforceable by law.
- (3) Women and men should be able to obtain information and record their rights without discrimination.

Land administration requires consideration of two key gender issues: *i*) how adequately the design of land administration activities addresses women's needs, interests and concerns; and *ii*) how women can participate equally in land administration activities (FAO 2013)

The countries reviewed in this paper are interested in both considerations: how to design activities with women in mind and how to encourage women's participation. The data collected are critical to understanding both. However, in addition to the data, additional information will need to be gathered, including understanding the local tenure system and the customs surrounding distribution of wealth and property within families, women's decision-making power in the family and community, women's representation in local affairs, and women's representation in registration offices. A review of the law and regulations will also be necessary.

As recognized by many of the country objectives above, communication, education, and training activities play a crucial role in achieving objectives related to women's land rights; closing the gender gap requires consistent and extensive communication with all stakeholders. In other land registration projects, good results were achieved by considering the different needs and preferences of men and women when it

comes to duration of trainings, timing of sessions, speaking freely in public, and literacy, and when outreach activities were mandatory. Evaluating outreach effectiveness while it is taking place and adapting each next session accordingly helps to ensure that the objectives of the outreach are being met in real time. Successful outreach also focused not just on project beneficiaries but also project staff, implementers; it involves two-way discussion, and is adaptive allowing for response to specific women's land rights related challenges as they occur.

## VI. CONCLUSIONS - GETTING THE MESSAGE ACROSS

One of the ten core principles of implementation of the Voluntary Guidelines – **transparency** – defines how communication and awareness raising can support responsible gender equitable land tenure governance.

**Communication and awareness** raising are crucial to changing values and attitudes, including those about gender and land tenure governance. Communication can mobilize people for development actions, such as claiming their land rights, while helping to build consensus on problems and their possible solutions through the participation of all stakeholders (FAO/GTZ, 2006). The participating countries will formulate their communication strategies and methods, using the information from the gender disaggregated reports and will address key issues in getting the message across, including awareness raising, advocacy, legal literacy and long-term change in values and attitudes.

**Advocacy based on evidence** demonstrates the value of a gender-equitable process, which benefits from the contributions and participation of all stakeholders, both women and men, making it much more likely to result in consensus and support for the resulting policies. Potential audiences for advocacy – policy-makers, government technical staff, involved in land titling, land registration, urban planning, private sector – notaries for example and NGOs will work together during the development and dissemination of communication products, strategies and methods.

**Gender Sensitization** may need to be integrated into the communication, awareness-raising, and advocacy efforts because deeply held attitudes about gender and land can be difficult to change. Effective gender sensitization must target both women and men, across ages, religions, ethnicities, social status, etc.

**Success depends on support from policymakers and government officials.** Communication strategy should start by sensitizing and training government officials and land sector administrators and technicians on why gender matters and the benefits of gender-equitable land tenure governance (FAO 2013)



**Different messages are required for different audiences.** As part of data collection, consider the audience and focus on understanding the issues from their point of view through qualitative research. Assess the existing level of knowledge and awareness of gender differences in land rights (both legal and customary rights) and in access to land registration services.

**Innovative approaches applied to land records and graphics** can increase the availability of gender-relevant data at regional, national, local level in a very short period of time and with a low cost, showing the areas with a persistent gap and providing possibility to define the period of time to follow the dynamic and to measure the results of actions taken.

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