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# GENDER, LGBTI, AND PERSONS WITH DISABILITIES ASSESSMENT

**April 2018**

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# GENDER, LGBTI, AND PERSONS WITH DISABILITIES ASSESSMENT

## Assessment Report

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## EXECUTIVE SUMMARY

IMPAQ International, in close collaboration with WI-HER, conducted a Gender Analysis; Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Analysis; and Persons with Disabilities (PWD) Analysis in Kosovo. The purpose of the assessment, contracted by the United States Agency for International Development (USAID), is to “better equip the Mission with information on the vulnerable groups and provide recommendations on future programming.” The intent is to inform development of a new Country Development Cooperation Strategy (CDCS). Towards informing learning, the assessment sought to “document strengths, weaknesses and best practices” identified while implementing the current Strategic Plan. The assessment involved mixed methods, including document review, examination of existing statistics, ten focus group discussions, and interviews with 106 key informants from diverse sectors, conducted in seven areas of Kosovo in March and April 2018.

### Gender Analysis: Key Findings

The existing legal framework pertaining to gender equality, with few exceptions, is generally considered acceptable by Kosovo professionals, public servants, and civil society representatives. However, several challenges exist regarding its implementation. Most civil servants, political appointees, and elected officials lack capacity and understanding of gender mainstreaming, its importance, and its implementation.

Gender inequalities, women’s underrepresentation, and gender-based discrimination exist in all sectors, including related to political participation, education, employment, human rights, rule of law, justice, energy, agriculture, and environment.

Kosovo faces several practical challenges in ensuring equality between men and women in all aspects of public and private life. First, women in Kosovo are disproportionately burdened with care activities at home, including care for the household (e.g. cooking and cleaning), children, the elderly, sick persons, and PWD. On average, women spend three times as much time on unpaid care-activities in the home as men. This unequal use of time contributes to women’s high levels of unemployment and labor market inactivity. In 2017, 79.3 percent of women in Kosovo were economically inactive, compared to 33.4 percent of men. Similarly, 38 percent of women were registered as unemployed in 2017, compared to 28 percent of men. The general lack of employment opportunities in Kosovo and discrimination in hiring are additional factors hindering women’s labor force participation.

Despite clear requirements for equal representation (50 percent) within the Kosovo Law on Gender Equality, women remain underrepresented in all public institutions at municipal and national levels, including among civil servants, political appointees, and elected officials. Currently, women do not lead any of the major political parties, and Kosovo has no women mayors in its 38 municipalities. Further, only two out of 22 ministers in Kosovo are women. In 2017, 40 percent of all government employees are women, and women hold only 27 percent of all ministerial leadership positions. Similarly, at the municipal level only 33 percent of all employees are women and only 20 percent of all leadership positions are held by women.

Women's CSOs face multiple challenges that inhibit their work. Lack of financial stability and long-term support by donors or institutions poses a significant challenge for women's CSOs that frequently work on a voluntary basis and struggle to pay utilities. Donor requirements increase the difficulties of grassroots CSOs in applying for grants as they frequently have complicated application procedures and forms which require impeccable abilities in English.

### **Gender Analysis: Key Recommendations**

USAID can consider several actions related to gender as a cross-cutting theme:

- Continue providing political support to furthering gender equality by continuously raising the issue of gender equality as part of policy and political dialogues with the government of Kosovo in all sectors.
- Strongly encourage and directly support implementation of Kosovo laws and policies relevant to furthering gender equality.
- Conduct gender analyses to inform initial program design, and ensure that furthering gender equality is an integral component of program design, implementation, evaluation and documentation.
- Continue including qualitative and quantitative indicators in intervention logics and awards with contractors and implementing partners, requiring regular reporting on progress. Develop outcome and impact indicators where possible.
- Consult more with women, gender equality experts, and women's rights organizations in designing and implementing programs.
- Enhance coordination with other donors and stakeholders on issues related to gender equality.
- In the context of the USAID vision for country transition activities, sustainability, and self-reliance, strongly consider providing long-term, institutional support for women's rights civil society organizations (CSOs) to implement their well-designed strategies. Moreover, seek to mainstream involvement of women's rights and gender equality CSOs in all programming across sectors, towards enhancing their capacities in civil society oversight (towards good governance), further develop sectoral expertise related to advancing gender equality, and to advocate for gender equality.

The report contains several additional recommendations relevant to specific sectors.

### **Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Analysis: Key Findings**

Kosovo's advanced legal framework guarantees rights for LGBTI persons. The Constitution guarantees the right to equal legal protection without discrimination, including based on one's sexual orientation. The Law on Protection from Discrimination and Law on Gender Equality include gender identity as a protected characteristic. In addition, the Civil Status Law regulates gender change notification in the civil registry and personal identification documents; this is

crucial for transgender persons undergoing a transition period and/or gender reassignment therapy/surgery. However, this law does not provide procedures for changing one's gender in public documents. In this respect, additional legal protection is needed. The Constitution states that "everyone enjoys the right to marry and the right to have a family as provided by law" and that no one shall be discriminated against on grounds of sex, gender, sexual orientation, or any other ground. However, the Family Law states that marriage is between a man and a woman. Same sex marriage has not yet been legally tested. Among the proposed amendments in the ongoing process of amending the Criminal Code of the Republic of Kosovo, is to introduce "Hate Crime" with a specific definition.

The Office of Good Governance, Human Rights, Equal Opportunities and Non-discrimination, (OGG) within the Office of the Prime Minister is responsible for the implementation of the Law on Protection from Discrimination, among other responsibilities. The Assembly Committee on Human Rights, Gender Equality, Missing Persons and Petitions provides oversight regarding the implementation of relevant laws that prohibit discrimination and promote gender equality. The Ombudsperson seeks to provide protection from illegal actions, failures, and improper actions of public authorities, institutions and officials, particularly related to discrimination. Human Rights Officers in ministries and municipalities should monitor implementation of the Ombudsperson's recommendations, as well as promote human rights and protection from discrimination.

Practical implementation of Kosovo's relatively advanced legal framework remains challenging. Few LGBTI persons have sought to realize their rights due to insufficient information, fear, and stigma. The government and politicians have done very little to promote equal rights. Institutions charged with implementing rule of law lack knowledge and do not prioritize the issue. Furthermore, prosecutors and judges are generally not familiar with human rights law. The Office of Good Governance has not overseen adequately the implementation of the National Action Plan, and the relevant parliamentary committees have not ensured proper oversight.

Stigmatization of LGBTI persons is rife in Kosovo society. Most families remain very homophobic and unaccepting of LGBTI people. In public spaces, LGBTI persons are protected from abuse only if they are not open about their sexuality or do not display traits associated with common perceptions of "homosexual" traits. Religion may play some role in social norms and beliefs regarding LGBTI persons, and religious leaders typically describe LGBTI persons as "sinful". The education system may also contribute to the stigmatization of LGBTI persons. For example, one textbook considers homosexuality a deviation, disorder, or illness.

Young LGBTI persons who are victims of bullying fear reporting their experiences to the authorities because they do not trust that public institutions will help them. LGBTI persons feel that healthcare providers, social workers, civil servants, and other public officials are generally prejudiced against them. Evidence exists that LGBTI persons experience inadequate, or even refusal of, services. While in theory disciplinary measures should exist for public servants and service providers, little research or examples exist as to whether these measures have been used.

The LGBTI organizations that fight discrimination face financial difficulties. One of only three organizations providing support to LGBTI persons closed in 2017 due to lack of funds. Donors mainly support short-term projects (one to two years long), which undermines CSOs' abilities to specialize and to undertake the long-term actions needed towards transforming social norms.



## **LGBTI Analysis: Key Recommendations**

- Where relevant, conduct LGBTI analyses to inform initial program design. Consult more with LGBTI groups in designing and implementing programs.
- Maintain coordination with other donors and stakeholders on issues related to LGBTI rights.
- Support initiatives to increase knowledge and awareness regarding LGBTI rights.
- Support CSOs in implementing their long-term strategies rather than short-term projects, providing mid- to long-term financial institutional support. This includes supporting CSOs in outreach and service provision outside Pristina, reaching and empowering more LGBTI persons.
- Consider directly supporting CSOs in their initiatives for proposing or amending laws, policies, strategies and action plans that can further the rights of LGBTI persons.
- Support CSOs to continue offering free legal aid, as well as to empower LGBTI persons to report rights violations and to realize their rights.
- Encourage the Committee on Human Rights, Gender Equality, Missing Persons, and Petitions to monitor laws, strategies, and action plans that guarantee LGBTI persons' rights.
- Work with the Government of Kosovo, Advisory and Coordination Group and civil society to ensure implementation of the Kosovo legal framework that protects the rights of LGBTI persons.
- Collaborate closely with other donors and stakeholders to support police, prosecutors, and judges to become more familiar with the relevant legal framework and to implement the new criminal code, following its adoption, international agreements and instruments, and other laws that guarantee the rights of LGBTI persons.

Additional recommendations related to LGBTI persons are provided later in the report.

## **Persons With Disabilities (PWD) Analysis: Key Findings**

The legal framework guarantees equal rights, opportunities, and non-discrimination to PWD. However, the legal framework has several shortcomings related to its content and implementation. First, the legal framework is not comprehensive, with several different laws providing benefits to specific groups (the deaf lack benefits altogether). Second, the vague language of the Law on Disability Pensions, as well as the very stringent criteria to qualify, puts many PWD at risk of not qualifying for disability pensions. Third, many laws on PWD are incompatible with the needs of PWD. PWD are rarely consulted during the process of drafting laws that affect them. Inadequate infrastructure and inaccessible public buildings undermine

PWD's participation in politics and decision-making processes, including related to the legal framework.

PWD lack adequate access to education. Kosovo currently has two special schools and five Resource Centers for children with disabilities. Some steps have been taken to integrate children with disabilities into regular schools. However, the lack of personal assistants for children with disabilities and inadequate learning tools (e.g. Braille books and tablets for deaf children) undermine PWD's access to the public education system. Employment also remains a problem for PWD for several reasons.

While there is a mandatory quota for all private and public employers to have at least one PWD employee per 50 employees, this law is rarely respected and strong fines and enforcement mechanisms are lacking. Companies offer appropriate work environments for PWD. PWD also noted that they lack equal access to property and inheritance rights, particularly women with disabilities. In addition, social and health assistance from the state remain insufficient for meeting the needs of PWD in Kosovo. This includes inappropriate services for PWD, weak physical access to institutions, insufficient medical personnel trained to work with PWD, and a lack of rehabilitation services for PWD in hospitals and other medical facilities.

### **PWD Analysis: Key Recommendations**

- Conduct PWD analyses to inform initial program design. Then, continue to incorporate PWD considerations as an integral component of program design, implementation, evaluation, and documentation, as relevant.
- Consult PWD, their families, and PWD organizations when planning new programs in order to ensure their needs are addressed and the best approaches for involving them in programming are identified.
- Support institutions to collect more reliable statistics on PWD, categorized by type of disability and gender.
- Towards local ownership, consider supporting a diverse coalition of PWD CSOs in working together to develop and implement a joint mid- to long-term strategy, thereby strengthening their capacities to monitor and hold institutions accountable.
- Require institutions to consult PWD in planning, implementing, and evaluating capital investment projects, ensuring accessibility from a PWD perspective. Coordinate with MCC and require all implementing partners and construction funded by USAID and MCC to meet accessibility criteria.
- Encourage the government to functionalize the National Council for Disabilities and the Committee on Monitoring, Reporting, and Evaluating the Implementation of the National Strategy on Persons with Disabilities.

Additional recommendations relating to including PWD within specific sectors are provided below.

## ACRONYMS AND ABBREVIATIONS

AGE	Agency for Gender Equality
AWESK	Association of Women in the Energy Sector in Kosovo
CDCS	Country Development Cooperation Strategy
CSO	Civil Society Organization
DO	Development Objective
EU	European Union
FG	Focus Group
GE/FE	Gender Equality/Female Empowerment
GRB	Gender Responsive Budgeting
KII	Key Informant Interview
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
MAFRD	Ministry of Agriculture, Forestry, and Rural Development
MESP	Ministry of Environment and Spatial Planning
MEST	Ministry of Education, Science and Technology
MoF	Ministry of Finance
MTI	Ministry of Trade and Industry
NGO	Non-Governmental Organization
NDI	National Democratic Institute
PWD	Persons with Disabilities
UN	United Nations
USAID	United States Agency for International Development

# **I. INTRODUCTION**

## **I.1 GENDER, LGBTI, PWD ASSESSMENT DESCRIPTION**

Gender and social-inclusion analysis helps identify and examine gender inequalities and social barriers that impact the ability of vulnerable groups, including women and girls; lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons; and persons with disabilities (PWD); to fully participate in their communities economically, politically, and socially. This type of analysis also involves reviewing the relevant legal and institutional framework, existing literature, and available statistics; conducting key informant interviews and focus groups; and mapping social issues and gender norms.

Understanding key barriers to social inclusion can support USAID/Kosovo in developing a comprehensive strategy and implementing programming that addresses gender and social inclusion-related issues with specific consideration for vulnerable populations. As per USAID ADS Chapter 201 guidance, such assessments allow for program, activity, and process planning and development that are contextually relevant to the local gender and social-inclusion challenges faced by Kosovars. Such assessments therefore contribute to measurably improving social outcomes for women, men, girls, and boys (including LGBTI persons and PWD).

## **I.2 BACKGROUND**

USAID contracted IMPAQ International, in close collaboration with WI-HER, to conduct a gender analysis, LGBTI analysis, and PWD analysis in Kosovo. The purpose of this assessment is to “better equip the Mission with information on the vulnerable groups and provide recommendations on future programming,” with the goal of informing development of a new Country Development Cooperation Strategy (CDCS). Moreover, the analysis “documents strengths, weaknesses and best practices that have been identified during the current Strategic Plan activities,” to inform learning. Building on findings, this assessment provides recommendations to inform programming within the new CDCS.

## 2. ASSESSMENT METHODOLOGY AND LIMITATIONS

### 2.1 ASSESSMENT METHODOLOGY

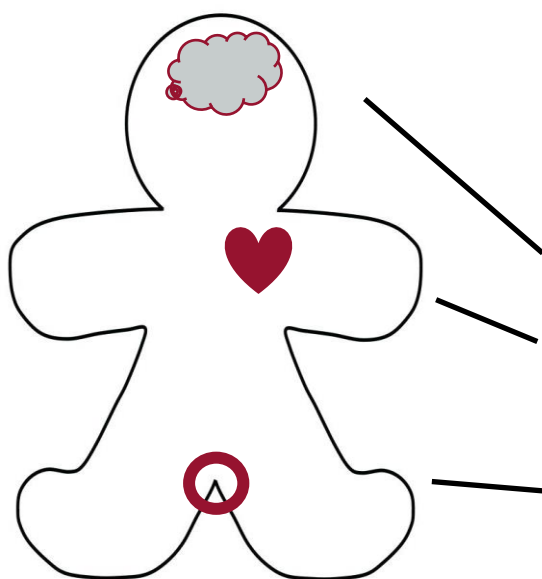
The key terms related to this assessment are defined as shown in Exhibit 1 on the next page. “Gender” refers to women, girls, men, and boys (in reference to the current, socialized norms and roles of each group in Kosovo). “Sex” (male, female) refers to the physical and biological differences between women and men. “Gender identity” refers to a person’s individual experience of gender. “Sexual orientation” refers to a person’s sexual identity as related to the gender to which the person is attracted (such as being heterosexual, homosexual, or bisexual). “LGBTI” refers to lesbian, gay, bisexual, transgender, and intersex persons.<sup>1</sup> While they are grouped together within this acronym for brevity, it is important to note that LGBTI individuals do not always identify as part of a singular, homogenous “community.”<sup>2</sup> Lesbian, gay, bisexual, transgender, and intersex persons often face different types of challenges and do not necessarily come together in a joint community. Moreover, either by choice or due to access, many LGBTI individuals lack any affiliation with a so-called “LGBTI community.” Some prefer not to be categorized as a member of any one of these groups, because they either want to maintain their own individuality or do not believe such categories should exist in society. Thus, this report refrains from using the homogenizing term “community.” Persons with disabilities (PWD) was operationalized to include persons with mental and physical disabilities, including blind and deaf persons. While the term “PWD” has been used for brevity, it should be born in mind that PWD also are not a homogenous group. The authors have sought to note differences among persons with different types of disabilities, as well as among women and men with disabilities, where relevant.

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<sup>1</sup> “Intersex” is an umbrella term that refers to a variety of chromosomal, hormonal, and anatomical conditions in which a person does not seem to fit the typical definitions of female or male.

<sup>2</sup> Interviews and focus group discussions with LGBTI individuals.

## Exhibit I. Definition of Key Terms



Term	Operationalized As
Gender	Women, girls, men, boys—referring to the socialized norms and roles of each in the society in which they live
LGBTI	Lesbian, gay, bisexual, transgender, intersex
Gender identity	One's personal experience of one's own gender
Sexual orientation	A person's sexual identity related to the gender to which the person is attracted—being heterosexual, homosexual, or bisexual
Sex	Male, female—referring to biological differences
Persons with disabilities	Persons with mental and/or physical disabilities, including being blind or deaf

The assessment focused on four fields of inquiry: (1) determining gender-related challenges, gaps, and needs; (2) identifying challenges, gaps, and needs of women, men, LGBTI persons, and PWD; (3) understanding the positive deviance in each of these communities; and (4) developing lessons learned and recommendations to integrate gender and address challenges, gaps, and needs of LGBTI persons and PWD in future USAID strategic planning efforts. An analysis of Gender and Power dynamics was outside the scope of this research as such an analysis was already conducted by the mission.<sup>3</sup>

<sup>3</sup> See also, Pawlak, Krasniqi, and Selaci, *Kosovo Gender and Power Dynamics Assessment, Final Report*, October 2016.

In examining each of these fields of inquiry, the four domains in ADS Chapter 205 guided the analysis: (1) laws, policies, regulations, and institutional practices that influence the context in which men and women act and make decisions; (2) cultural norms and beliefs; (3) gender roles, responsibilities, and time use; and (4) access to, and control over, assets and resources. The team also considered “intersectionalities,” such as how rural disabled women or disabled LGBTI persons may face additional challenges and require specific support.

In responding to the research questions (detailed in Annex A), the team used a mixed methods approach, including the following data collection methods: (1) in-depth desk review of all relevant documents, legal frameworks, and key actors in Kosovo relating to gender, LGBTI persons, and PWD; (2) review of relevant quantitative data; (3) key informant interviews with 106 key stakeholders; and (4) 10 focus group discussions with 42 participants. All research participants were selected using variation sampling, towards consulting with diverse stakeholders (including officials in municipalities and ministries, oversight institutions, the judiciary, donors, USAID, USAID implementing partners, CSOs, media, private sector, academia, religious leaders, PWD, and LGBTI persons). Data collection was conducted in Pristina, Prizren, Peja, Gjilan, Gjakova, North Mitrovica, and South Mitrovica, including several respondents who worked in areas beyond these specific locations.

The research team entered findings into a database, encoding the findings for data analysis. Overall, this assessment involved triangulation of researchers, methods, and data sources, all towards enhancing the validity of the results.

## **2.2 LIMITATIONS**

Given that the assessment focused on gender equality, LGBTI persons, and PWD, across various sectors, the timeframe for conducting the assessment was rather limited. The timeframe for fieldwork overlapped with the USAID Week of Women, as well as with final workshops on the Kosovo Program for Gender Equality organized by the Agency for Gender Equality (AGE). This meant that several stakeholders were unavailable to participate. Despite these limitations, the use of mixed methods, variation sampling, and the large number of participants overall, provided a sufficiently diverse array of views for reliable findings and recommendations.

### 3. GENDER ANALYSIS

#### 3.1 LAWS, POLICIES, REGULATIONS, AND INSTITUTIONAL PRACTICES

Kosovo has several laws, policies, regulations, and institutions that attend to gender equality. The Constitution of the Republic of Kosovo incorporates several international agreements and instruments.<sup>4</sup> These include the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), according to which national legislation should eliminate discrimination against women and establish effective measures to ensure equality for women.<sup>5</sup> Moreover, Article 7 of the Constitution enshrines gender equality as a fundamental value of the government of Kosovo, including equal opportunities for women and men, and for their equal participation in all aspects of life (socially, culturally, politically, and economically).

In 2015, the Government of Kosovo adopted a new package of laws on human rights, which includes the Law on Gender Equality,<sup>6</sup> the Law on Protection from Discrimination,<sup>7</sup> and the Law on the Ombudsperson Institution.<sup>8</sup> The Law on Gender Equality guarantees equal treatment in private and public spheres in sectors that include health, economy, employment, political and public life, social benefits, culture, and sports.<sup>9</sup> This Law, which guarantees equal opportunities in all the aforementioned areas, defines unequal representation as any instance in which women or men, respectively, hold less than 50 percent of positions, including at all levels of decision-making in all public and political bodies.<sup>10</sup> Further, the Law on Gender Equality foresees institutions' use of temporary special measures to ensure and accelerate gender equality where inequalities exist.<sup>11</sup> These measures include support programs, gender quotas, preferential treatment in hiring procedures, and the allocation or reallocation of resources. This Law requires all Kosovo institutions to undertake gender-responsive budgeting, a requirement that has been incorporated within budget call circulars from the Ministry of Finance (MoF). The Law also sets forth the responsibilities of the Agency for Gender Equality (AGE) and establishes gender equality officers within ministries and municipalities. Further, it calls for gender analysis to inform all policy-making processes. Kosovo does not currently have a Strategy and National Action Plan for Gender Equality, though in 2018 AGE was in the process of drafting one, based on the requirements of the Law on Gender Equality.

The Law on Protection from Discrimination prohibits discrimination based on gender or gender identity in several fields, including social and public participation, employment, social

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<sup>4</sup> Assembly of the Republic of Kosovo, Constitution of the Republic of Kosovo, Article 22, at: <http://www.kryeministri-ks.net/repository/docs/Constitution1Kosovo.pdf>.

<sup>5</sup> United Nations, CEDAW, 1981, at: <http://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>.

<sup>6</sup> Assembly of the Republic of Kosovo, Law on Gender Equality, Law No. 05/L-020, 2015, at: [www.assembly-kosova.org/common/docs/ligjet/05-L-020%20a.pdf](http://www.assembly-kosova.org/common/docs/ligjet/05-L-020%20a.pdf).

<sup>7</sup> Assembly of the Republic of Kosovo, Law on the Protection from Discrimination, Law No. 05/L-021, 2015, at: [www.kuvendikosoves.org/common/docs/ligjet/05-L-021%20a.pdf](http://www.kuvendikosoves.org/common/docs/ligjet/05-L-021%20a.pdf).

<sup>8</sup> Assembly of the Republic of Kosovo, Law on Ombudsperson, Law No. 05/L-019, 2015, at: [www.kuvendikosoves.org/common/docs/ligjet/05-L-019%20a.pdf](http://www.kuvendikosoves.org/common/docs/ligjet/05-L-019%20a.pdf).

<sup>9</sup> Law on Gender Equality, Article 2.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid, Article 6.



protection, membership in workers' organizing, education and training, supply of goods and services, housing, and access to public spaces.

The Law on the Ombudsperson Institution establishes the basis for the functioning of this institution, which receives and investigates complaints involving discrimination (including those related to discrimination on the basis of gender). The Institution works towards promoting, monitoring, and supporting equal treatment on grounds protected by the Law on Protection from Discrimination and the Law on Gender Equality.<sup>12</sup>

For the most part, in the context of Kosovo's European Union (EU) Accession process, these and other laws align with the EU Gender Equality Acquis, though some issues could be further clarified.<sup>13</sup> Several other laws and policies in Kosovo are relevant to gender equality, including (among others) the Criminal Code (currently undergoing review); Criminal Procedure Code (also under review); Law on Labour; Law on Family; Law on Inheritance; Law on Non(Out)–Contentious Procedures; Law on Property and other Real Rights; Law on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Trafficking; Law on Protection against Domestic Violence; National Strategy for Protection against Domestic Violence and Action Plan 2016-2020; Standard Operating Procedures for domestic violence and trafficking cases, respectively; and the temporary Administrative Instruction on Special Measures for Registration of Joint Immovable Property on Behalf of Both Spouses.

The existing legal framework is generally considered sufficient, albeit with some exceptions.<sup>14</sup> These include insufficient penalties for violating the Law on Gender Equality and the Law on Protection from Discrimination. Several laws also have not been aligned with the Law on Gender Equality, particularly provisions on equal representation, including laws on local and central elections, Law on the Government of the Republic of Kosovo, Law on the Assembly of the Republic of Kosovo, and Law on Public Financial Management and Accountability. In addition, lack of gender mainstreaming in policy-making, implementation, and monitoring processes has led to laws, policies, and programs that do not sufficiently consider women's and men's needs. This includes insufficient consultation in policy and budget planning processes with women, gender equality experts, and women's rights CSOs. Further, Gender Equality Officers are insufficiently involved in drafting policies for their ministries or municipalities, both because they lack capacities and because decision-makers do not sufficiently involve them. Thus, few central and local level policies have been informed by proper gender analysis.

In 2018, the Criminal Code of Kosovo was undergoing revisions. Amendments were proposed in line with the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention)<sup>15</sup> to include a specific definition of domestic violence and attention to female genital mutilation. A specific definition of sexual

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<sup>12</sup> Law on the Ombudsperson, Article 1.

<sup>13</sup> See Cleff le Divellec, Sylvia and Katharina Miller for KWN, *Policy Paper: Kosovo's Progress in Aligning Its Laws with the European Union Gender Equality Acquis*, Pristina: 2017, <http://www.womensnetwork.org/documents/20171108105226438.pdf>.

<sup>14</sup> Interviews with diverse respondents.

<sup>15</sup> Council of Europe, Convention on Preventing and Combating Violence Against Women and Domestic Violence, 2011, at: <https://rm.coe.int/168046031c>

harassment also was proposed. The Criminal Code is still being amended and has not yet been finalized and adopted.

Meanwhile, the Labor Law also was undergoing revision, to better align it with EU directives. The current provisions for maternity leave and paternity leave, for example, do not follow principles of gender equality. Women receive up to 12 months leave (six months paid at 70 percent of their salary by the employer, three months at 50 percent of the average wage in Kosovo paid by the government and three months unpaid).<sup>16</sup> In contrast, men receive only two paid leave days and two weeks unpaid leave, unless the mother agrees for her rights to be conveyed to the father.<sup>17</sup> The present provisions contribute to discrimination against women in hiring. The private sector, in particular, seeks to avoid hiring women of reproductive age to avoid paying for them to take maternity leave.<sup>18</sup> Finally, current breastfeeding provisions do not allow for flexible working hours for breastfeeding.<sup>19</sup> Government facilities tend not to provide breastfeeding rooms.

Despite the otherwise fairly comprehensive legal framework, Kosovo faces several practical challenges with ensuring equality between men and women in all aspects of public and private life. Gender inequalities, women's underrepresentation, and gender-based discrimination exist in all sectors, related to political participation, education, employment, human rights, rule of law, justice, energy, agriculture and environment, as later elaborated in this report.<sup>20</sup>

*“We have very good laws, but we lack implementation.”*

*- Donor*

Challenges to implementing the existing legal framework include lack of knowledge and capacity among responsible officials,<sup>21</sup> related in part to insufficient explanation of Kosovo's plethora of new laws and policies to those implementing them. Insufficient political will to further gender equality and the related insufficient allocation of state resources to implement existing laws and policies on gender quality further hinder implementation of the legal framework pertaining to gender equality. Socialized gender roles and stereotypes also can inhibit proper implementation of the existing legislation, as sexist and stereotypical attitudes and

*“Even though they are saying over and over, ‘It’s a priority’, the budget is telling us [something else].”*

*– Donor Representative*

<sup>16</sup> Assembly of the Republic of Kosovo, Law on Labour, Article 49, 2010 at: [www.assembly-kosova.org/common/docs/ligjet/2010-212-eng.pdf](http://www.assembly-kosova.org/common/docs/ligjet/2010-212-eng.pdf).

<sup>17</sup> Ibid, Article 49, 50.

<sup>18</sup> Banjska et al, *Striking a Balance: Policy Options for Amending Kosovo's Law on Labour to Benefit Women, Men, Employers and the State*, 2016, [www.womensnetwork.org/documents/20160504154201373.pdf](http://www.womensnetwork.org/documents/20160504154201373.pdf); Riinvest Institute, *Women in the Workforce: An analysis of the workforce conditions for women in Kosovo*, 2017, at: [www.riinvestinstitute.org/uploads/files/2017/September/07/Women\\_in\\_the\\_workforce1504775463.pdf](http://www.riinvestinstitute.org/uploads/files/2017/September/07/Women_in_the_workforce1504775463.pdf)

<sup>19</sup> Assembly of the Republic of Kosovo, Law No.02/L-081 on Infants Breastfeeding Incitement and Protection, 2008, at: [www.gazetazyrtare.com/e-gov/index.php?option=com\\_content&task=view&id=229&Itemid=28&lang=en](http://www.gazetazyrtare.com/e-gov/index.php?option=com_content&task=view&id=229&Itemid=28&lang=en)

<sup>20</sup> For a detailed analysis of women and men's status across a variety of sectors, see Farnsveden et al, *Country Gender Profile: An analysis of gender differences at all levels in Kosovo*, 2014, [www.swedenabroad.com/ImageVaultFiles/id\\_20757/cf\\_2/Orgut\\_Kosovo\\_Gender\\_Profile\\_FINAL\\_2014-05-08.PDF](http://www.swedenabroad.com/ImageVaultFiles/id_20757/cf_2/Orgut_Kosovo_Gender_Profile_FINAL_2014-05-08.PDF).

<sup>21</sup> Interviews, 2018.

personal biases among institutions and officials can make them hesitant or uncomfortable in implementing the existing legal framework.<sup>22</sup>

### 3.2 CULTURAL NORMS AND BELIEFS

Existing cultural norms and beliefs, in particular, contribute to gender inequality in Kosovo. From birth, the physical and biological differences between males and females lead society to assign them different social roles as men and women. The family, community (e.g. friends and neighbors), broader social circle (e.g. ethnicity, culture, religion), state policies and actors that reach beyond state borders (e.g. media) all contribute to the socialization process of individuals. In Kosovo, as in many places around the world, this socialization process tends to involve ascribing women domestic roles related to unpaid caretaking (e.g. cleaning, cooking; and caring for children, the elderly, ill, and PWD). In contrast, men tend to be taught to occupy public space, earn a living for their families, and participate in decision-making processes. According to cultural norms, women's biological role in physically giving birth to children also contributes to prevalent assumptions that women are "naturally" made to be responsible for care work, whereas men are, just as "naturally," ill-suited for such work. Such socialized assumptions were recurring themes among interview respondents. This validates prior research findings, including the assessment by Pawlak et al. conducted for USAID in 2016, which determined that unequal work-life divisions in Kosovo are associated with perceptions of who is more apt to take care of children.<sup>23</sup>

The current educational system in Kosovo tends to reinforce rather than counter these traditional gender roles, contributing to the socialization process of assigning particular social roles and responsibilities to women and men.<sup>24</sup> At all levels from the

*"We teach this from kindergartens on:  
Women in the kitchen, men in  
construction."*

*– Government official*

kindergarten to tertiary education, and across disciplines, the curricula and teaching in Kosovo tend to reinforce cultural gender norms and beliefs. For instance, kindergarten teachers reproduce gender roles by making children play with "toys for girls" (such as dolls and plastic ovens), and "toys for boys" (such as balls, cars, and blocks). Then, primary and secondary school curricula reinforce these traditional gender roles, including through textbook illustrations of girls/women doing house-work, and men/boys working or playing outside. Thus, at present, a working group within the Ministry of Education, Science and Technology (MEST) is examining textbooks from a gender perspective. University curricula also do not contain a gender perspective, and many academic fields do not include discussion gender (in)equalities at all. Moreover, several textbooks across study areas contain discriminatory and sexist language—thus training future economists, lawyers, judges, and prosecutors to uphold rather than undo existing power relations and inequalities among women and men.

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<sup>22</sup> Interviews, 2018.

<sup>23</sup> This remained a recurring theme among respondents (interviews, 2018). See also, Pawlak, Krasniqi, and Selaci, *Kosovo Gender and Power Dynamics Assessment, Final Report*, October 2016.

<sup>24</sup> This was a recurring theme among diverse respondents (interviews, 2018).

Since such norms are taught, the assumed “natural” roles of women and men can be changed by adjusting the socialization process. Such change also can occur through state policies related to accessible state services and education that, for example, men can care for children and women can work in public spaces.

*“There is pressure on young boys to be a proper, successful man”*

*- Government official*

While waning, some remnants of customary law still affect gender equality.<sup>25</sup> Customarily, women would “leave” their birth families upon marriage. Her husband’s family would become responsible for her financial wellbeing. It followed that women would not receive inheritance, including property, from her birth family, because she was already “taken care of.” While Kosovo’s current laws foresee equal inheritance for women and men, and safeguard women’s right to own property, the cultural practice of men inheriting all family property remains significantly prevalent.

*“Everyone in the base of their human nature as a female or a male has some duties that suit them more than the other, but this is not inequality. Women can’t do some hard, physical work and we shouldn’t let them do it. That doesn’t mean inequality, but respect.”*

*- Religious leader*

Cultural norms and beliefs such as these put women at a disadvantage when it comes to access to and control over financial resources (see Section 3.3). Stereotypes related to men’s physical capacity to carry out more difficult types of labor, and women’s assumed inability to do so, also contribute to discrimination in hiring women to perform jobs culturally considered “for men.” Similarly, current cultural beliefs regarding the “nature” of women to be caretakers contribute to occupational segregation. For example, few men enter gender-stereotypical positions of primary school teachers or nurses. However, some affirmative measures supported by the state, CSOs, and/or international donors might be contributing to change, such as by supporting more girls to enter the information and communication technology (ICT) and energy sectors.

The cultural practice of property passing among men further limits women’s access to resources, contributing to women’s unequal position within the family in decision-making. According to a 2016 survey, only 7.3 percent of women reported having the final say in important decisions made within their households.<sup>26</sup> Another 46.9 percent said such decisions are taken by their husbands, and 12.4 percent said by their fathers.<sup>27</sup> This type of power imbalance can place women at risk of poverty (when men do not provide for them) and even domestic violence.

<sup>25</sup> Customary law is largely documented in Gjecovi, Shtjefen, *The Code of LekeDukagjini, 1910-1925*.

<sup>26</sup> Farnsworth et al. for Kosovo Women’s Network (KWN), *Access to Healthcare*, Pristina: KWN, 2016, at: <https://www.womensnetwork.org/documents/20170206150329798.pdf>.

<sup>27</sup> Ibid.

Since such cultural norms and beliefs remain widespread among people socialized in Kosovo (including among police, prosecutors, judges, and civil servants), these beliefs affect the rule of law and implementation of the legal framework relating to gender equality.<sup>28</sup>

### 3.3 GENDER ROLES, RESPONSIBILITIES, AND TIME USE

Given the aforementioned cultural norms and beliefs regarding the division of labor by gender in Kosovo, women and men spend their time in substantially different ways, with their roles and responsibilities heavily determined by the traditional, patriarchal family model.<sup>29</sup> On average, women spend 300 percent more time on care-activities than do men.<sup>30</sup> Here, care activities include socially prescribed productive and reproductive responsibilities within the home that contribute to women's low participation in the labor force. Care activities are among the main reasons for women's inactivity in the labor market.<sup>31</sup>

*"So many women go home from their full-time jobs late in the evening, at the same time as their husbands. However, husbands jump in front of the TV and the women have to start their second job."*

*– Gender Equality Officer*

This is further exacerbated by the lack of affordable childcare facilities.<sup>32</sup>

The few women who do work in paid positions outside the home face a double burden of working "two shifts": one performing paid labor outside the home, the second shift conducting care activities at home.<sup>33</sup> According to a recent survey, women who work outside the home average 7.5 hours doing paid work per day, and nearly three hours performing unpaid care-work.<sup>34</sup> The same study found a very unequal division of labor in households with two working partners, with most of the burden falling on the women. A recent time-use study illustrated that men average 400 percent more time on paid employment (16.2 hours per day and 3.7 hours for

<sup>28</sup> Berisha et al for KWN, *From Words to Action? Monitoring the Institutional Response to Gender-Based Violence in Kosovo*, Pristina: KWN, 2018, at: [www.womensnetwork.org/documents/20180312142859762.pdf](http://www.womensnetwork.org/documents/20180312142859762.pdf).

<sup>29</sup> Pawlak, Krasniqi, and Selaci, *Kosovo Gender and Power Dynamics Assessment, Final Report*, October 2016.

<sup>30</sup> Social Impact, Draft Excerpt of "Kosovo Labor Force and Time Use Study Research Report", 2017.

<sup>31</sup> There is substantial evidence for this, including: Banjska et al, *Striking a Balance: Policy Options for Amending Kosovo's Law on Labour to Benefit Women, Men, Employers and the State*, 2016; Morina, Linda and Delibashzade, Rezarta for Democracy for Development, *Women's Inactivity in the Labour Market: Factors hindering women's participation in the Labour Market*, 2017, [www.d4d-ks.org/wp-content/uploads/2017/12/D4D\\_PI\\_12\\_W4D\\_ENG\\_WEB.pdf](http://www.d4d-ks.org/wp-content/uploads/2017/12/D4D_PI_12_W4D_ENG_WEB.pdf); Riinvest Institute, *Women in the Workforce: An analysis of the Workforce Conditions for Women in Kosovo*, 2017, [www.riinvestinstitute.org/uploads/files/2017/November/10/Women\\_in\\_the\\_workforce1510308291.pdf](http://www.riinvestinstitute.org/uploads/files/2017/November/10/Women_in_the_workforce1510308291.pdf); [www.womensnetwork.org/documents/20160504154201373.pdf](http://www.womensnetwork.org/documents/20160504154201373.pdf). Childcare was also an issue noted in the EU Progress Report.

<sup>32</sup> Farnsworth et al. *Who Cares? Demand, Supply, and Options for Expanding Childcare Availability in Kosovo*, 2016, at: <https://www.womensnetwork.org/documents/20161103153827186.pdf>

<sup>33</sup> *Women in the Workforce: An analysis of the workforce conditions for women in Kosovo*, 2017, at: [www.riinvestinstitute.org/uploads/files/2017/September/07/Women\\_in\\_the\\_workforce1504775463.pdf](http://www.riinvestinstitute.org/uploads/files/2017/September/07/Women_in_the_workforce1504775463.pdf)

<sup>34</sup> Ibid.



women); women, in contrast, spend 300 percent more time on household activities and family care (7.1 hours compared to 2.3 hours for men).<sup>35</sup>

The time women spend on unpaid care work also can hinder them from applying for leadership roles, management positions, or jobs with working hours that are uncondusive to balancing the life responsibilities ascribed to them by society. Time limitations and the relative unavailability of care services also may hinder their ability to participate in education or training programs to the same extent that men can.<sup>36</sup> For example, in one instance in a rural area, a man accompanied his wife to a USAID-supported company seeking to hire more women; he stated several preconditions according to which she would be “allowed” to work, including that she would need to be home in time to undertake all her household responsibilities.

### 3.4 ACCESS TO AND CONTROL OVER ASSETS AND RESOURCES

In 2017, 79.3 percent of women in Kosovo were economically inactive compared to 33.4 percent of men,<sup>37</sup> 38 percent of women were registered as unemployed compared to 28 percent of men.<sup>38</sup> Reasons for economic inactivity vary substantially by gender. Men tended to be economically inactive because they were attending education or training, whereas women’s economic inactivity tended to be due to their unpaid care responsibilities at home.<sup>39</sup>

Besides unpaid care activities at home, the overall lack of employment opportunities in Kosovo and discrimination in hiring have been identified as factors particularly hindering women’s labor force participation.<sup>40</sup> Kosovo has very few part-time jobs available, which would enable women to balance their paid and unpaid work.<sup>41</sup> Fierce competition for very few job openings does not provide employers with incentive for offering flexible working hours or part-time work. Moreover, several studies confirmed that gender-based discrimination in hiring persists, partially because employers do not want to bear the potential costs affiliated with maternity leave when hiring women.<sup>42</sup>

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<sup>35</sup> Ibid.

<sup>36</sup> Research conducted within the Ministry of Environment and Spatial Planning illustrates that women’s double burden may make it difficult for women to take leadership and other time-consuming positions. For more see Emina Abrahams dotter and Nicole Farnsworth for the Sida Framework Environmental Programme for Kosovo, Institutional Gender Analysis: Creating Equal Opportunities in the Ministry of Environment and Spatial Planning, 2017.

<sup>37</sup> Kosovo Agency of Statistics, Labour Market Survey 2017 Q3, [ask.rks-gov.net/media/3815/labour-force-survey-q3-2017.pdf](http://ask.rks-gov.net/media/3815/labour-force-survey-q3-2017.pdf).

<sup>38</sup> Ibid.

<sup>39</sup> Banjska et al for KWN, *Striking a Balance: Policy Options for Amending Kosovo's Law on Labour to Benefit Women, Men, Employers and the State*, Pristina: KWN, 2016, [www.womensnetwork.org/documents/20160504154201373.pdf](http://www.womensnetwork.org/documents/20160504154201373.pdf).

<sup>40</sup> Morina, Linda and Delibashzade, Rezarta for Democracy for Development, *Women’s Inactivity in the Labour Market: Factors hindering women’s participation in the Labour Market*, 2017, [www.d4d-ks.org/wp-content/uploads/2017/12/D4D\\_PI\\_12\\_W4D\\_ENG\\_WEB.pdf](http://www.d4d-ks.org/wp-content/uploads/2017/12/D4D_PI_12_W4D_ENG_WEB.pdf).

<sup>41</sup> According to the latest Labour Force Survey (2017 Q4) only 4.9% of all Kosovars were employed part time.

<sup>42</sup> Riinvest Institute, *Women in the Workforce: An analysis of the Workforce Conditions for Women in Kosovo*, 2017, [www.riinvestinstitute.org/uploads/files/2017/November/10/Women\\_in\\_the\\_workforce1510308291.pdf](http://www.riinvestinstitute.org/uploads/files/2017/November/10/Women_in_the_workforce1510308291.pdf); Morina and Delibashzade for Democracy for Development; Banjska et al for KWN.

According to official statistics, women owned only 13.4 percent of all enterprises in Kosovo in the last Quarter of 2017.<sup>43</sup> Further, women own newly registered (start-up) enterprises at lower levels than men. In the period of 2014-2017 only 18 percent of newly registered businesses were women-owned.<sup>44</sup> Women made up only 3 percent of commercial bank loan recipients in 2015.<sup>45</sup>

*“Sometimes it’s easier to pay the fine than not to discriminate based on gender.”*

– Oversight Institution Representative

As noted, unequal property ownership contributes to women’s unfavorable socio-economic situation in Kosovo. In 2017, women owned 16.7 percent of all registered properties in Kosovo, a slight improvement compared to 14.4 percent a year earlier.<sup>46</sup> According to a national survey by the USAID Property Rights Program, 18 percent of women reported having one or more properties registered in their name in 2015,<sup>47</sup> and this increased to 20 percent in 2017.<sup>48</sup> USAID reports have highlighted the issues, challenges, and barriers preventing women from exercising their property and inheritance rights, even though these are guaranteed by existing laws. Cultural gender norms and traditional patrilineal practices contribute to women’s lack of property ownership.<sup>49</sup> Insufficient capacities, knowledge, and patriarchal attitudes of responsible officials when it comes to enforcing property and inheritance rights remain common, including among judges and notaries. Women’s lack of property ownership in itself represents unequal access to resources. Moreover, women’s insufficient access to capital, such as property, also undermines their ability to access additional resources, such as loans for business development.

*“We still have judges who ask women whether they want to give their properties to their brothers.”*

– Civil society activist

Although it is a legal obligation as per the Law on Gender Equality,<sup>50</sup> insufficient implementation of gender responsive budgeting (GRB) contributes to women’s lack of access to and control over resources. For instance, women tend to benefit less from state subsidies from budget organizations, such as the Ministry of Trade and Industry (MTI) and the Ministry of Agriculture, Forestry, and Rural Development (MAFRD). For example, women owned enterprises received 25 percent of subsidies offered by the Kosovo Investment and Enterprise

<sup>43</sup> Kosovo Agency of Statistics, Statistical Repertoire of Enterprises in Kosovo, Q4-2017, 2017, at: [ask.rks-gov.net/media/3847/statistical-repertoire-of-enterprises-in-kosovo-q4-2017.pdf](http://ask.rks-gov.net/media/3847/statistical-repertoire-of-enterprises-in-kosovo-q4-2017.pdf)

<sup>44</sup> Farnsworth et al for KWN, *Budgeting for Gender Equality in Trade and Industry*, 2016.

<sup>45</sup> Farnsveden et al, *Country Gender Profile: An Analysis of Gender Differences at all levels in Kosovo*, 2015, at: [www.womensnetwork.org/documents/20140513160130237.pdf](http://www.womensnetwork.org/documents/20140513160130237.pdf).

<sup>46</sup> Cadastral Agency.

<sup>47</sup> USAID Property Rights Program, *Gender, Property, and Economic Opportunity in Kosovo 2015*, [https://www.usaid.gov/sites/default/files/documents/1863/Kosovo%20PRP%20Report\\_Gender%20Property%20and%20Economic%20Opportunity%20in%20Kosovo\\_ENG....pdf](https://www.usaid.gov/sites/default/files/documents/1863/Kosovo%20PRP%20Report_Gender%20Property%20and%20Economic%20Opportunity%20in%20Kosovo_ENG....pdf).

<sup>48</sup> Zeqiri, Driton for USAID, *Midterm National Survey on Property Rights in Kosovo, Property Rights Program*, 2017.

<sup>49</sup> USAID Property Rights Program, 2015.

<sup>50</sup> Assembly of the Republic of Kosovo, Law No. 05/L-020 on Gender Equality, Article 5.1.5, 2015, [www.assembly-kosova.org/common/docs/ligjet/05-L-020%20a.pdf](http://www.assembly-kosova.org/common/docs/ligjet/05-L-020%20a.pdf).

Support Agency in MTI.<sup>51</sup> This is due in part to the fact that women own 13.4 percent of enterprises in Kosovo. Even so, the government can take affirmative measures when providing subsidies to attempt to support women's businesses, given existing inequalities. Similarly, in 2017 women comprised only 19 percent of all recipients of MAFRD subsidies, where they received only three percent of all available expenditures (€1.3 million out of €49 million).<sup>52</sup> Moreover, while women make up the majority of the unemployed in Kosovo, men continuously benefit more from employment services (e.g. provided by Vocational Training Centers and Employment Offices).<sup>53</sup> Further, while the majority of household members in families in need of social assistance are women, men from those families are more likely to collect the assistance,<sup>54</sup> plausibly leading to unequal distribution of state funds among family members, hurting women in particular.

As these examples suggest, insufficient implementation of GRB in central and local-level planning and implementation contributes in particular to women's unequal access to state resources and benefits. Due to women's underrepresentation and discrimination in all areas, the lack of GRB predominantly impacts women. However, there are several instances where men are disadvantaged by the lack of GRB as well. For instance, data shows that 99.6 percent of all pre-school teachers in Kosovo are women.<sup>55</sup> Among other problems, this leads to men not benefitting equally from government funding in the budget category of "wages and salaries" for this level of education.<sup>56</sup>

### *Definition*

*Gender Responsive Budgeting (GRB) is a strategy that mainstreams a gender perspective throughout the budget planning, implementation, monitoring, and evaluation processes. It requires analyzing each planned and actual expenditure and its impact/potential impact on men, women, girls, and boys.*

Inadequate implementation of GRB in Kosovo is attributable to several factors. First, the Law on Gender Equality has not been harmonized with the Law on Public Financial Management, and systems for incorporating GRB within electronic governmental financial management systems have yet to be put in place. Second, budget circulars provided annually by the MoF do request that budget organizations submit an annex to their budgets containing GRB relevant data, however, the MoF's attention to GRB in circulars has largely resulted from advocacy by CSOs and international organizations. While civil society monitoring is a positive practice, the MoF could choose not to include this requirement in the future, meaning it has not been sufficiently institutionalized. Third, requesting an annex to budgets, rather than institutionalizing mandatory data entry into existing electronic budget systems and processes, means that GRB is not integrated sufficiently into budgeting and reporting systems, hampering institutional

<sup>51</sup> Farnsworth et al for KWN, *Budgeting for Gender Equality in Trade and Industry*, Pristina: KWN, 2016.

<sup>52</sup> Guri et al for KWN, *Budgeting for Better Agriculture and Rural Development*, Prishtina: KWN, 2017, at: [www.womensnetwork.org/documents/20171010144621382.pdf](http://www.womensnetwork.org/documents/20171010144621382.pdf).

<sup>53</sup> See Morina and Farnsworth for KWN, *Budgeting for Social Welfare II*, 2015, at: <https://www.womensnetwork.org/documents/20151203094304537.pdf>; and Shima and Farnsworth for KWN, *Budgeting for Social Welfare*, 2014, at: <https://www.womensnetwork.org/documents/20140702111942678.pdf>

<sup>54</sup> Ibid.

<sup>55</sup> Morina and Farnsworth for KWN, *Budgeting for Better Education*, 2015.

<sup>56</sup> Ibid.



accountability. Fourth, MoF has not sufficiently required budget organizations to implement GRB, as shown by the fact that not all budget organizations have submitted the requested GRB annexes. Fifth, despite a plethora of trainings delivered to public servants at municipal and ministerial levels, several officials responsible for GRB still lack sufficient knowledge, capacity, and/or will to ensure GRB is implemented.<sup>57</sup> Sixth, women's limited participation in public consultations on the budget, compared to men's, may hamper the extent to which the budget addresses their priorities and interests. Seventh, there has been little to no monitoring of the implementation of GRB during budget execution; the link between GRB in budget planning and in implementing clear actions to address identified gender inequalities seems weak.<sup>58</sup> All of these issues may hamper women's access to state resources in particular.<sup>59</sup>

### 3.5 CONSTRAINTS TO WOMEN'S PARTICIPATION IN DECISION-MAKING

Despite clear requirements in the Kosovo Law on Gender Equality for equal representation of each gender at all decision-making levels, defined as 50 percent of positions,<sup>60</sup> women remain underrepresented in all public institutions at both municipal and national levels, including among civil servants, political appointees, and elected officials.

Currently, women do not lead any of the major political parties, though one of the parties in the parliament is led by a woman (it has 2.4 percent of seats).<sup>61</sup> None of the nine parliamentary groups is led by a woman.<sup>62</sup> Overall, women hold 31.6 percent of seats in the Kosovo Assembly.<sup>63</sup> This is in line with the Law on General Elections,<sup>64</sup> but not with the Law on Gender Equality. In 2018, of 38 women in the Kosovo Assembly, 43 percent received their seats thanks to the quota foreseen by the Law on General Elections, and 57 percent were directly elected by popular vote. This is an improvement compared to 2014, when 52 percent of the 39 women in the Assembly were directly elected.

However, women's representation in national level government bodies pales compared to that of men. Only two of the 22 ministers in Kosovo are women.<sup>65</sup> In 2017, only 40 percent of all civil servants were women, and women held 27 percent of all ministerial leadership positions.<sup>66</sup> At the municipal level, Kosovo does not have a single woman mayor in any of its 38 municipalities. Women comprise only 33 percent of all employees and 20 percent of all leadership positions.<sup>67</sup> A total of 2397 women were candidates for local assemblies in the 38 Municipalities of Kosovo during the 2017 elections. Out of those candidates, 333 were elected, including 224 (67 percent)

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<sup>57</sup> Interviews, 2018.

<sup>58</sup> Interview with municipal officials suggested that this has not been done in several municipalities, though not all municipal officials were interviewed (2018).

<sup>59</sup> For further evidence, see the reports of KWN on gender budgeting in various ministries.

<sup>60</sup> Law on Gender Equality, Article 6, Paragraph 8.

<sup>61</sup> Website of the Kosovo Assembly, Accessed on 7.5.2018 at: <http://www.kuvendikosoves.org/?cid=1,107>

<sup>62</sup> Ibid.

<sup>63</sup> Website of the Assembly of Kosovo.

<sup>64</sup> Assembly of the Republic of Kosovo, Law No. 03/L-073 on General Elections in the Republic of Kosovo, Article 27, 2008, at: [www.kuvendikosoves.org/common/docs/ligjet/2008\\_03-L073\\_en.pdf](http://www.kuvendikosoves.org/common/docs/ligjet/2008_03-L073_en.pdf).

<sup>65</sup> Official data from the Websites and internal documents of political parties, municipalities, and ministries.

<sup>66</sup> Ministry of Local Public Administration.

<sup>67</sup> Ibid.

via the quota and 109 (33 percent) through direct popular vote.<sup>68</sup> Women are also underrepresented in the boards of publicly owned enterprises, comprising only 15 percent of all 159 board members in 2017 and chairing only 16 percent of boards.<sup>69</sup> Further, women comprised only 16.3 percent of all members of the boards of independent institutions and agencies,<sup>70</sup> in violation of the Law on Gender Equality.<sup>71</sup>

Women remain underrepresented in the justice sector, as well. Of 8,820 Kosovo Police employees in 2017, only 14 percent were women.<sup>72</sup> No women lead any of the 10 Prosecutorial Offices in Kosovo, and only 31 percent of all prosecutors in Kosovo are women.<sup>73</sup> Similarly, only the Constitutional Court and one of seven Basic Courts are led by women. By the end of 2017, 40 percent of all judges were women.

*“It’s like a woman and a man trying to reach the 10th floor of a building. But the man can take the elevator while the woman has to run up the stairs with obstacles in the way.”*

*- Representative of an Oversight Institution*

Barriers impeding women from entering decision-making positions include gender stereotypes that deem women as unfit to lead.<sup>74</sup> Additionally, the aforementioned time limitations that women face, and their resource constraints all contribute to women lacking the networks that men have related to decision-making processes. Such networks can be important for taking part

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<sup>68</sup> Democracy for Development, 2018

<sup>69</sup> Gap Institute, Representation of Women in the boards of publically-owned enterprises and independent agencies, 2017, [www.institutigap.org/documents/38241\\_Representation%20of%20Woman%20in%20the%20Boards%20of%20Publicly%20Owned%20Enterprises%20and%20Independent%20Agencies.pdf](http://www.institutigap.org/documents/38241_Representation%20of%20Woman%20in%20the%20Boards%20of%20Publicly%20Owned%20Enterprises%20and%20Independent%20Agencies.pdf)

<sup>70</sup> Ibid.

<sup>71</sup> For more information on women’s representation in specific Ministries please refer to several KWN publications on Gender Responsive Budgeting, which have, among other topics, analyzed women’s representation in decision-making in several ministries, exposed discrepancies between government commitments and real budgetary allocations, as well as the impact on women and men beneficiaries. See, e.g., the following: Shima, Ada and Farnsworth, Nicole for KWN, *Budgeting for Social Welfare: A rapid Gender Analysis to inform gender responsive budgeting in the ministry of labour and social welfare in Kosovo*, 2014, [www.womensnetwork.org/documents/20140702111942678.pdf](http://www.womensnetwork.org/documents/20140702111942678.pdf); and Donjeta Morina and Nicole Farnsworth for KWN, *Budgeting for Social Welfare: A Gender+ Analysis to inform gender responsive budgeting in the Ministry of Labour and Social Welfare in Kosovo for 2016-2018*, 2015, [www.womensnetwork.org/documents/20151203094304537.pdf](http://www.womensnetwork.org/documents/20151203094304537.pdf); Morina, Donjeta and Farnsworth, Nicole for KWN, *Budgeting for Better Education: A Gender analysis of expenditures and services in the Ministry of Education, Science, and Technology*, 2015, [www.womensnetwork.org/documents/20160607151528942.pdf](http://www.womensnetwork.org/documents/20160607151528942.pdf); Farnsworth et al. *Budgeting for Gender Equality in Trade and Industry*, 2017, [www.womensnetwork.org/documents/20161108210425364.pdf](http://www.womensnetwork.org/documents/20161108210425364.pdf); Farnsworth et al for KWN, *Budgeting for a Better Environment, A gender analysis of Expenditures and Services in the Ministry of Environment and Spatial Planning*, 2017, [www.womensnetwork.org/documents/20161108211545508.pdf](http://www.womensnetwork.org/documents/20161108211545508.pdf); Guri, Nerina and Farnsworth, Nicole for KWN, *Budgeting for Better Agriculture and Rural Development*, 2017, [www.womensnetwork.org/documents/20171010144621382.pdf](http://www.womensnetwork.org/documents/20171010144621382.pdf); Guri, Nerina and Farnsworth, Nicole, *Budgeting for Improved Gender Equality in Diaspora Programs*, 2017, [www.womensnetwork.org/documents/20171117095149894.pdf](http://www.womensnetwork.org/documents/20171117095149894.pdf).

<sup>72</sup> KWN for the EU Office in Kosovo, *Kosovo Gender Analysis*, 2018.

<sup>73</sup> Ibid.

<sup>74</sup> This was a recurring theme mentioned during interviews and focus groups.

in and influencing decision-making, including securing resources for campaigning and campaign support. During the 2017 election campaigns, for example, women candidates took part in fewer television debates, had fewer billboards in public spaces, and secured fewer sponsored posts in online portals than men did.<sup>75</sup> Further, women candidates did not receive equal support from their political parties during the campaign; this includes logistical as well as financial support.<sup>76</sup> As previously explained, striking a balance between work and private life presents a challenge for women seeking to participate in decision-making processes. Women's unequal care responsibilities at home make it difficult for them to engage in decision-making positions that require substantial time outside the home.<sup>77</sup> Moreover, lack of public transport in the evening poses problems for women traveling to and from Pristina to participate in official meetings. Finally, representation in terms of numbers does not guarantee qualitative participation in decision-making processes.

### **3.6 SECTOR-SPECIFIC OBSTACLES TO FEMALE EMPOWERMENT AND GENDER EQUALITY**

This section provides further details on gender inequality in Kosovo within particular sectors: education, energy, agriculture, the environment, and the rule of law.

#### **3.6.1 EDUCATION**

Girls and boys in Kosovo attend pre-university education at similar rates (48 percent for girls and 52 percent for boys for primary and secondary education).<sup>78</sup> The discrepancy is slightly higher in pre-school education, where 46 percent of all pupils are girls and 54 percent are boys.<sup>79</sup> Gender differences can be attributed to several factors, including insufficient affordable pre-school facilities. Pre-school attendance in Kosovo remains low and below the EU Barcelona Objective targets. The “Barcelona targets”, state that 90 percent of children between age three and the mandatory school age, as well as 33 percent of children under three, should be provided with childcare.<sup>80</sup> However, in Kosovo, only an estimated 25 percent of children aged three to six and two percent of children under three years attended preschool in 2015.<sup>81</sup> As mentioned previously, insufficiently available preschool education is also a factor impeding women's labor force participation.

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<sup>75</sup> Molliqaj, Leonida for Preportr, The Men's Campaign, 2017, at: <http://preportr.cohu.org/sq/hulumtime/Fushata-e-burrave-221>.

<sup>76</sup> European Commission, Kosovo\* 2018 Report, 2018, at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-kosovo-report.pdf>.

<sup>77</sup> Interviews, 2018.

<sup>78</sup> MEST, Education Statistics in Kosovo 2015/2016, Pristina: 2016, at: <http://masht.rks-gov.net/uploads/2016/08/statistika-e-arsimit-ne-kosove-ang.PDF>.

<sup>79</sup> Ibid.

<sup>80</sup> EC, *Barcelona Objectives: The development of childcare facilities for young children in Europe with a view to sustainable and inclusive growth*, p. 5, at: [http://ec.europa.eu/justice/gender-equality/files/documents/130531\\_barcelona\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/documents/130531_barcelona_en.pdf).

<sup>81</sup> Calculated by authors using Farnsworth et al for KWN, *Who Cares? Demand, Supply, and Options for Expanding Childcare Availability in Kosovo*, KWN: Pristina, 2016, [www.womensnetwork.org/documents/20161103153827186.pdf](http://www.womensnetwork.org/documents/20161103153827186.pdf) Who Cares at: <http://www.womensnetwork.org/documents/20161103153827186.pdf>, pp. 17-18.

Kosovo took part in the Programme for International Student Assessment (PISA) in 2015 for the first time and ranked among the bottom three countries. This included low performance in subjects such as science, mathematics, and reading, as well as for overall educational performance.<sup>82</sup> Girls performed slightly worse than boys in mathematics, and boys worse than girls in science. Girls scored significantly better than boys in reading.<sup>83</sup>

Students at universities tend to focus on stereotypically gendered fields—with men significantly underrepresented in education and women underrepresented in science, agriculture, business, and geosciences.<sup>84</sup> This contributes to occupational gender segregation later on. Gender differences among teachers also exist, with the percentage of women teachers decreasing as the education level rises. For instance, while women make up 99.6 percent of all pre-school teachers, they make up only 40 percent of upper secondary teachers, and 35 percent of all professors at the University of Pristina.<sup>85</sup>

More women than men study bachelor (54 percent) and masters (57 percent) programs in public universities; more men attend private universities for bachelor (58 percent) and masters (67 percent) programs. Slightly more women enrolled in bachelor (55 percent) and masters (51 percent) studies at the University of Pristina in the 2015/2016 academic year than men did.<sup>86</sup> Generally, more women (59 percent) than men (39 percent) graduated from the University of Prishtina.<sup>87</sup> The societal pressure on young men to be financially stable and heads of households may push young men to drop out of education and enter the labor market, though further research is needed. In turn, as documented earlier, women's success in academia, in both attendance and graduation, is not reflected in their labor force participation.

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<sup>82</sup> Organization for Economic Co-Operation and Development (OECD), *PISA 2015 Results*, at: <http://gpseducation.oecd.org/CountryProfile?primaryCountry=XKO&treshold=10&topic=PI>.

<sup>83</sup> Ibid.

<sup>84</sup> Ibid.

<sup>85</sup> MEST, Education Statistics in Kosovo 2015/2016, Pristina: 2016, at: <http://masht.rks-gov.net/uploads/2016/08/statistika-e-arsimit-ne-kosove-ang.PDF>.

<sup>86</sup> See Annex E.

<sup>87</sup> Ibid. Data disaggregated by department of study is available in Annex 5. [Education](#).

### 3.6.2 ENERGY

Women continue to lack decision-making power and access to information about the energy sector.<sup>88</sup> This is particularly problematic as women are responsible for energy usage in the household.<sup>89</sup> There is no reliable gender disaggregated data on energy usage within the household in Kosovo.<sup>90</sup> Women remain underrepresented in the energy sector. In fields that yield future workers for the energy sector, women are underrepresented among students, such as in Geosciences (17.9 percent at the University of Mitrovica in academic year 2015/2016).<sup>91</sup> However, women's enrollment in other relevant fields like Computer and Electric Engineering (41 percent at the University of Pristina in the 2015/2016 academic year) has improved since the academic year 2014/2015 (34.8 percent).<sup>92</sup>

*“We still don't trust women sufficiently to be leaders in big sectors such as energy”*

*– Gender Equality Officer*

Perceptions, including gender occupational stereotypes related to suitable occupations for women and men, may hinder women from entering particular fields of study (e.g., geosciences) and from applying for positions in the energy sector. Meanwhile, perceptions among officials and employers that women are incapable or inexperienced could contribute to undermining the hiring of women in this sector (see quotation).

*“Even if we wanted to employ more women in the energy sector we can't because women are still not interested in the field as much as men and lack the necessary education and experience.”*

*– Public Servant at Ministry of Economic Development*

As a best practice, USAID/REpower's Mentoring Circles, support to the Association of Women in the Energy Sector (AWESK), and affirmative measures in its internship program have supported women in entering the sector.<sup>93</sup>

### 3.6.3 AGRICULTURE

Officially, only 4.4 percent of the total Kosovo population is active in “Agriculture, forestry, and fishing,” with women slightly underrepresented (4.6 percent of men compared to 3.7 percent of women), according to official statistics.<sup>94</sup>

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<sup>88</sup> AECOM International Development, Gender Analysis and Action Plan REPOWER-Kosovo, 2015 and interview with Ministry of Economic Development.

<sup>89</sup> AECOM International Development, Gender Analysis and Action Plan REPOWER-Kosovo, 2015.

<sup>90</sup> Ibid.

<sup>91</sup> MEST, Education Statistics in Kosovo 2015/2016, Pristina: 2016, at: <http://masht.rks-gov.net/uploads/2016/08/statistika-e-arsimit-ne-kosove-ang.PDF>.

<sup>92</sup> MEST, Education Statistics in Kosovo 2014/2015, Prishtina:2016, at: <http://ask.rks-gov.net/media/1653/statistikat-e-arsimit-2014-2015.pdf>.

<sup>93</sup> Correspondence with USAID official, 2018.

<sup>94</sup> Agency of Statistics, Labour Force Survey, 2017, at: [ask.rks-gov.net/media/3631/labour-force-survey-q2-2017.pdf](http://ask.rks-gov.net/media/3631/labour-force-survey-q2-2017.pdf)

In 2017, as noted, women comprised only 19 percent of all recipients of subsidies provided by MAFRD.<sup>95</sup> Considering that women comprise only five percent of licensed farmers,<sup>96</sup> this suggests that MAFRD has tried to support women farmers, including through the use of affirmative measures in selection criteria. Even so, MAFRD has not yet achieved full implementation of the Law on Gender Equality, which calls for furthering gender equality. Since gender analysis has shown that women are underrepresented in this sector, MAFRD could have used additional affirmative measures to further encourage and support more women in becoming licensed farmers to qualify for subsidies, among other measures. Further, women-led companies/subjects received fewer licenses for forestry-related activities (18 percent of all licenses from 2014 to March 2017).<sup>97</sup> Women continue to be underrepresented in the wine-making sector, with only one percent of wine makers registered in the Vineyard Cadaster owned by women.<sup>98</sup>

*“People don’t understand that agriculture doesn’t depend entirely on physical work anymore, it has been modernized. There are opportunities for everyone.”*

*- Public Servant at MAFRD*

A recent survey found that the biggest challenges faced by women in this sector include poor access to funding, lack of property ownership (causing difficulties in meeting criteria to receive grants), lack of education (that hinders their abilities to complete grant applications), and husbands taking ownership of grants, even when women are the beneficiaries.<sup>99</sup> Additional factors the assessment identified as implicated in women’s low participation in agriculture include: existing cultural norms and beliefs, mentality, and patriarchal traditions. According to MAFRD officials, existing gender roles and stereotypes keep the perception of agriculture as work for men only.

Some prior best practices have sought to increase women’s involvement in agriculture, such as specific programs targeting women farmers, MAFRD’s affirmative measures related to subsidies, and programs to support women farmers in completing applications for grants and subsidies.

### 3.6.4 ENVIRONMENT

Very little research exists on Kosovo’s environmental sector from a gender perspective. There is no in-depth gender analysis of the differential impact environmental degradation and pollution may have on men and women. Women remain underrepresented in the Ministry of Environment and Spatial Planning (MESP), both as employees (37.8 percent) and in decision-making positions (22 percent).<sup>100</sup> Women also continue to be underrepresented in the fields of water,

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<sup>95</sup> KWN, *Gender Responsive Budgeting in the Ministry of Agriculture, Forestry, and Rural Development*,

<sup>96</sup> Ibid

<sup>97</sup> Ibid.

<sup>98</sup> Ibid.

<sup>99</sup> Survey conducted with KWN members in 2017.

<sup>100</sup> Emina Abrahamsdotter and Nicole Farnsworth for the Sida Framework Environmental Programme for Kosovo, *Institutional Gender Analysis: Creating Equal Opportunities in the Ministry of Environment and Spatial Planning*, 2017.



sanitation, and waste management (accounting for only 13.2 percent of all employees at the water supply company in Pristina and 7.3 percent of employees at the waste disposal company “Pastrimi”).<sup>101</sup> Moreover, recent research shows that MESP has not conducted internal gender analyses to inform its activities, policies, projects, and programs.<sup>102</sup> While MESP has taken steps to carry out GRB, the extent to which this has informed the implementation of programs seems minimal, largely due to limited knowledge and capacities for gender mainstreaming in programming within the Ministry.<sup>103</sup>

### 3.6.5 RULE OF LAW

Poor data management systems, including non-existent inter-institutional cooperation in tracking data on specific cases, make it very difficult to monitor justice institutions’ performance with regard to access to justice for women and men. Each institution has its own database, and the numbers of cases treated by different institutions do not add up. No inter-institutional database exists to track cases through the justice system, despite several prior efforts and investments by international donors in creating such a database. Moreover, the judiciary does not seem to collect and report gender-disaggregated data regarding victims and perpetrators, so it is not possible to monitor any trends in potential unequal access to justice for women and men (e.g. related to time of procedures, concluded cases, or sentencing).

A review of crimes committed in Kosovo in the last 17 years suggests crimes involving violence against women are prevalent. Of the alleged crimes committed, as registered by police, 18,444 involved domestic violence. Substantially more women (81 percent) than men (19 percent) were victims of the alleged crimes committed within a domestic relationship reported to police between 2009 and 2014.<sup>104</sup> Meanwhile, men tend to perpetrate violence more than women; for example, in 2015-2017, men comprised 94 percent of perpetrators of gender-based violence, whereas women comprised 6 percent.<sup>105</sup> A review of the gender of victims of crimes reveals that men are more likely to be victims of bodily harm and murder, whereas women tend to comprise the majority of victims of harassment, rape, and degradation of sexual integrity. Existing research has suggested that these trends derive from sociocultural norms and a patriarchal culture that condones male violence, perpetrated against men as well as women. Further research is needed to qualitatively understand these issues in Kosovo.

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<sup>101</sup> KWN for the EU Office in Kosovo, *Kosovo Gender Analysis*, 2018.

<sup>102</sup> Abrahamsdotter and Farnsworth for Sida, 2018.

<sup>103</sup> Ibid.

<sup>104</sup> KWN, *From Words to Action*, 2018, p. 45. Original analyzed by KWN.

<sup>105</sup> Ibid.

## Exhibit 2. Victims of Selected Crimes by Gender, as Reported to the Kosovo Police

Crime	2017				Total (2015-2017)		
	Women	Men	Unknown	Total	Women	Men	Total
Murder	13	133	2	148	34	426	469
Aggravated Murder	7	24	0	31	15	95	110
Harassment	107	36	0	143	297	117	416
Light Bodily Harm	704	1,991	0	2,695	1,928	5,709	7,675
Grievous Bodily Harm	31	265	5	301	114	923	1,048
Rape	26	5	0	31	87	10	97
Degradation of sexual integrity	2	0	0	2	5	0	5
<b>Total</b>	<b>901</b>	<b>2,467</b>	<b>7</b>	<b>3,375</b>	<b>2,499</b>	<b>7,302</b>	<b>9,861</b>

Source: Adapted from KWN, *From Words to Action*, p. 46, derived from police statistics.

A review of judicial data also suggests that few domestic violence cases were resolved.<sup>106</sup> At the same time, extremely limited information exists relating to the justice system's processing of cases involving sexual discrimination or harassment, likely to be far more prevalent for women than men.

Several issues seem to contribute to weak rule of law generally, and insufficient access to justice for women in particular. First, crimes may not be reported due to: fear of repeat violence; a lack of living alternatives; concern about stigmatization for the victim and/or the family; and/or insufficient information regarding how to establish legal rights, including where and how to report crimes.<sup>107</sup> Second, police and prosecutors do not always collect sufficient evidence at crime scenes to enable prosecution.<sup>108</sup> In cases involving sexual violence, victims' lack of information about the time-sensitive nature of coming forward so evidence can be collected, stigma, and the lack of psychological counseling for victims during these processes all present challenges. Third, as mentioned, since most police, prosecutors, and judges have had the same socialization process as other Kosovo residents, intentionally or unintentionally they may uphold the traditional gender roles and responsibilities of women and men, even if in contradiction to the legal framework. For example, judges reportedly often grant child custody to fathers as "bread-winners" because men are considered better placed to provide for children economically, while the fact that the father is abusive may be overlooked in custody proceedings.<sup>109</sup> Fourth, judges may lack knowledge of the legal framework.<sup>110</sup> Broader challenges that impact access to justice include: (1) a backlog of cases and (2) a processing system that requires judges to rule on 30

<sup>106</sup> Ibid

<sup>107</sup> KWN, *No more Excuses*, 2015

<sup>108</sup> Interviews, 2018.

<sup>109</sup> KWN, *From Words to Action*, p. 22.

<sup>110</sup> Ibid.



cases per month, which incentivizes judges to avoid problematic or time-consuming cases in favor of easier cases to meet their quota.<sup>111</sup>

Court premises also lack adequate security precautions, such as separate entrances for victims and alleged perpetrators, including family members; and protective screens during testimonies. Also, several courts still lack the digital equipment for providing testimony by video to protect victims from facing their perpetrator.

Insufficient availability of public services to support the rehabilitation of perpetrators of violence (primarily men), as foreseen by the Law on Protection from Domestic Violence,<sup>112</sup> contribute to recidivism.<sup>113</sup>

### 3.7 CIVIL SOCIETY ORGANIZATIONS

Evidence suggests that women's rights organizations are key actors in bringing about sustainable, transformative changes related to gender equality. However, they face several challenges. First, lack of financial stability and long-term support makes it difficult for most women's CSOs to develop expertise on particular issues and work towards long-term impact. Short-term grants, which comprise the vast majority of funding to women's CSOs, contribute to a piece-meal approach, not suitable for working consistently over time to address social issues, which often takes several years. Second, applying for short-term grants often requires the same amount of time as applying for larger grants, and CSOs often do not receive grants after spending the time to prepare such applications. Third and related, bureaucratic paper work related to grant applications, monthly or even weekly reporting, and other reporting detract time and energy away from activists' work towards social change. Fourth, current grant-making procedures tend to involve competition, which undermines solidarity among women's groups and joint work in building alliances. Fifth, women's CSOs usually do not have the resources to compete against international organizations in bidding procedures. Sixth, perceptions that women's CSOs are incapable of implementing programs also contribute to challenges for them in accessing resources. Seventh, local-level CSOs receive very little donor funding, as applications almost always need to be drafted in English and they lack the capacities to fill out an application in a non-native language. Many CSOs frequently work without pay because long-term donor support is lacking.<sup>114</sup>

Recent donor trends seem to involve a turn towards supporting the government only, or addressing gender inequalities through gender mainstreaming rather than specific, targeted programs. This has included a trend to support all CSOs in undertaking efforts to gender equality, and not necessarily specifically supporting women's rights organizations. Indeed, all programs and all CSOs should have policies in place towards ensuring gender equality and should seek to ensure gender equality in their work. At the same time, as this assessment has shown, sometimes specific actions are needed to address particular gender inequalities, and women's rights organizations are well-placed.

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<sup>111</sup> Interviews, 2018.

<sup>112</sup> Foreseen by Article 9.

<sup>113</sup> KWN, *No More Excuses and From Words to Action*.

<sup>114</sup> Interviews, 2018.

### 3.8 USAID PROGRAMMING

USAID/Kosovo's current Country Development Cooperation Strategy (CDCS) presents women's empowerment as a cross-cutting goal. For example, the Rule of Law Development Objective (DO) 1 is to be achieved through monitoring courts on family-law issues, improving gender imbalance in inheritance and property law, and skill-building for female elected officials. Additionally, the gender strategy includes support to women's caucuses and increased female representation in political parties and CSOs. Gender issues are also included as part of USAID/Kosovo's gender strategy's monitoring and evaluation (M&E) plan. The sample assessment questions that are part of the Private Sector Employment DO 2 ask whether individual income has increased for "all citizens, including women and those from vulnerable groups."<sup>115</sup> The Mission-wide Performance Management Plan (PMP) also includes gender-sensitive indicators and collection of gender-disaggregated data.

USAID's attention to gender as a cross-cutting theme, and the requirement of contractors and implementing partners to report regularly on progress in mainstreaming gender within their programming across sectors, was repeatedly noted as a best practice.<sup>116</sup> This approach ensured consistent maintenance of gender-disaggregated data, as well as held implementers responsible for ensuring they took steps towards furthering gender equality within their programming.

Challenges included insufficient monitoring of qualitative changes, as well as limited indicators measuring overall, long-term impact (focusing more on immediate, short-term outputs).<sup>117</sup>

*"We documented more than 200 programs, but we couldn't find evidence of what happened. Only, 'we trained 200 women'; it doesn't say if the training was useful, or if they have an improved life."*

*– Representative of International Organization*

The assessment team reviewed 16 PMPs to check for their inclusion of gender issues, issues pertaining to PWD, and issues pertaining to LGBTI persons. Out of the 16 PMPs reviewed, only one contained objectives specifically related to gender equality.<sup>118</sup> Five of the PMPs contained no indicators related to gender equality. Some contained "Performance Indicator reference sheets," which stated that all indicators would be disaggregated by gender. However, this was not reflected in the "Performance Indicator Tables," which only referred to individuals, students, teams, etc. It was difficult to assess the extent to which gender was mainstreamed in program activities. Most PMPs did not outline specific activities, and those that did (three PMPs in total), did not have a gender perspective mainstreamed through them. The activities outlined in one PMP<sup>119</sup> reflect gender somewhat by specifying focus on young women during the training, education, and certification process. For several other activities, no gender perspective seems to have been planned or monitored within this PMP.

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<sup>115</sup> USAID, *Kosovo: 2014-2018 Country Development Cooperation Strategy*.

<sup>116</sup> Interviews, 2018.

<sup>117</sup> Ibid.

<sup>118</sup> The Property Rights Program.

<sup>119</sup> "Partnering for Impact - Workforce Partnership in ICT."

The assessment team further reviewed assessment/M&E reports for nine different USAID programs. Of these, six contained no objectives related to gender equality/women's empowerment, and four did not contain any indicators related to gender equality. For instance, "Monitoring for CVE [Countering Violent Extremism]; Documenting Progress on the Fight Against Violent Extremism" has a paragraph on indicator selection, which explains the need for monitoring plans to be gender sensitive, incorporating gender equality indicators and data disaggregation by gender. However, the document's Annex 1 (factor-specific indicators) does not include such information. Data collected on specific indicators where the number of people is enlisted is not disaggregated by gender.

Moreover, few gender equality experts and advocates had sufficient information regarding USAID programs, and even fewer said they had been consulted in the planning or implementation of such programs.<sup>120</sup> That gender equality experts and leaders were not always involved in programming may be considered a lost opportunity, as they may contribute knowledge and expertise to these programs.

### **3.9 OTHER DONORS' CURRENT AND PLANNED PROGRAMS**

Several donors are working on furthering gender equality directly or via a gender mainstreaming approach.<sup>121</sup> The European Union, Austrian Development Agency (ADA), Swedish International Development Agency (Sida), and Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ) all require gender analyses to inform their programming and require gender mainstreaming as part of programs. These donors, as well as the Millennium Challenge Corporation (MCC), Swiss Agency for Development and Cooperation (SDC), and UN agencies, seek to mainstream gender in all their programming. Additionally, the British Embassy, Council of Europe, and World Bank also will likely have future programs relating to gender equality. Since few donors have clear, definite plans in place for the coming five years, continued coordination with these donors over time is recommended.

### **3.10 CONCLUSIONS ON GENDER EQUALITY**

While some gaps exist in the relevant legal framework, poor implementation of existing laws is generally the primary concern.

#### **3.10.1 WEAKNESSES, CHALLENGES, AND KEY CONSTRAINTS**

Key challenges include socialized roles and responsibilities that affect time use and women's involvement in public life; insufficient rule of law and access to justice and implementation of existing laws, particularly for women; women's underrepresentation in politics and decision-making, quantitatively and qualitatively; women's unequal access to and control over resources; and low knowledge regarding gender equality, gender mainstreaming, and gender budgeting.

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<sup>120</sup> Statements made by gender equality experts and advocates interviewed at municipal and national levels.

<sup>121</sup> For further information, please see Annex E.

### 3.10.2 BEST PRACTICES IN FURTHERING GENDER EQUALITY IN KOSOVO

Best practices were noted by participants including women's networks that have brought together diverse stakeholders, researched issues, and undertaken evidence-based advocacy. In particular, the Kosovo Lobby for Gender Equality was noted as a best practice in bringing together women municipal assembly members, GEOs, CSO representatives, and men supporters to advocate for gender equality at the municipal level.

USAID's mainstreaming of gender in all its programs and contractual requirements for regular reporting on progress from implementers was also noted as exemplary in holding diverse actors in different sectors accountable for furthering gender equality within their work. The Transformational Leadership Program and the use of affirmative measures to further gender equality, such as by MAFRD, also were noted as good practices.

*"It's an example of how cooperation among civil society, women in institutions, and women representing political parties can enhance inclusion of women and improve the situation at the local level. This best practice can also be spread in the national level."*

*– Donor Representative*

### 3.10.3 OPPORTUNITIES FOR FURTHERING GENDER EQUALITY IN THE NEW STRATEGY

The aforementioned practices of gender mainstreaming in future programming should be continued, as well as use of USAID's positive reputation to encourage government officials and citizens to further gender equality in diverse sectors. Opportunities also exist for supporting existing networks, towards sustaining their activism and furthering their capacities to take ownership over advocacy efforts in the long term. Ongoing reforms to the legal framework present additional opportunities for furthering gender equality.

## 3.11 RECOMMENDATIONS FOR GENDER MAINSTREAMING WITHIN PROGRAMMING

As per the research questions, this section suggests how gender can serve as a cross-cutting theme that can strengthen common activities among DOs in the future.

- Continue providing visible leadership and political support to further gender equality in Kosovo by continuously raising the issue of gender equality as part of policy and political dialogues with the government of Kosovo in all sectors. Kosovars' respect for the United States provides an opportunity for USAID to continuously emphasize the importance of furthering gender equality in all sectors, providing specific, relevant suggestions.
- Strongly encourage and directly support implementation of Kosovo laws and policies relevant to furthering gender equality where investments in institutionalizing and furthering gender equality can be sustained.
- Conduct gender analyses, not only during implementation, but to inform initial program design. Then ensure that furthering gender equality is incorporated as an integral component of program design, implementation, and evaluation and documentation.

- Continue to include qualitative and quantitative indicators within intervention logics and contracts with contractors and implementing partners, including continuing to require regular reporting on progress towards gender equality targets within all programs. Develop outcome and impact indicators to measure project effectiveness where possible.
- Consult more with women, gender equality experts, and women's rights organizations in designing and implementing programs. Insofar as possible, compensate them for their time—thus recognizing their expertise and the time it takes for them to contribute to programming.
- Enhance coordination with other donors and stakeholders on issues related to gender equality.
- Mainstream gender sensitization in all USAID-provided trainings, including with program staff, towards educating diverse actors in different sectors about gender roles and how to further gender equality within their particular sectors and programming.
- Continue to document and further publicize best practices, and also what does not work, in furthering gender equality, towards lessons learned.
- In the context of the USAID vision for country transition activities, sustainability, and self-reliance, strongly consider providing long-term, institutional support for women's rights CSOs to implement their well-designed strategies.<sup>122</sup> Moreover, insofar as possible, seek to: (1) mainstream involvement of women's rights and gender equality CSOs in all programming across all sectors, towards enhancing their capacities to monitor officials; (2) further develop sectoral expertise related to advancing gender equality; and (3) advocate for gender equality in different sectors. This will contribute to ensuring local ownership and furthering capacities for sustainably holding officials accountable for advancing gender equality in diverse sectors, after specific USAID programs have closed.

### **3.12 RECOMMENDATIONS FOR FURTHERING GENDER EQUALITY AND WOMEN'S EMPOWERMENT IN PROGRAMS**

This section suggests recommendations of possible entry points for the incorporation of gender in carryover DOs as well as potential new DOs. Without the precise content of the new CDCS, these recommendations draw from issues identified in the gender analysis and correspond with current DOs, based on the hypothesis that the new CDCS may continue to focus on similar DOs.

#### **3.12.1 EDUCATION**

- Support and build the capacity of MEST to collaborate with gender experts in undertaking further research to better understand the qualitative reasons why girls and boys of different ages, ethnicities, geographic areas, religions, and abilities do not

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<sup>122</sup> Growing evidence underlines the importance of supporting women's rights organizations and movements directly, towards bringing about long-term, sustainable change.

enroll in school or drop out of school, respectively. Such research can inform improved programming that addresses root (and gender-related) causes of girls and boys not completing basic education.

- Invest in quality basic education, including pre-school, which can contribute substantially to transforming social norms and stereotypes by educating children from a young age that different gender roles and responsibilities are possible. Evidence shows that investing in early childhood education also contributes to improved educational performance later in life. In addition, such investments will contribute to implementation of Kosovo's National Development Strategy, dually creating jobs and enabling more women to work as their children will have access to affordable care at an earlier age. Draw from recommendations for different models, based on existing best practices.<sup>123</sup>
- Institutionalize a teacher certification program on gender sensitization and integration for teachers at all levels, to enable them to feel more comfortable understanding and teaching the relevant curricula.
- Support MEST in strengthening the capability of inspectors related specifically to inspecting the quality of teaching related to furthering gender equality.
- Support MEST to incorporate affirmative measures towards gender equality in its policies and guidance for municipalities, such as in criteria for hiring the underrepresented gender of teachers (e.g. men as primary and preschool teachers). If working with schools, support administrative staff in applying such affirmative measures.
- Support sustainable inclusion of gender considerations in targeted faculties at UP, particularly law and medicine, enabling future professionals to be educated in the legal framework pertaining to gender equality, so they can contribute to its implementation in their professional work.
- Collaborate with the UP Law Faculty to institutionalize education on power relations, gender, Gender Based Violence, and LGBTI.

### 3.12.2 NATURAL RESOURCES MANAGEMENT (ENERGY)

- Continue to make a business case to involve more women in the energy sector.
- Continue to support and institutionalize programs to recruit women to the energy sector through school outreach, job training, career orientation, and mentoring circles. Continue collaboration with and support for the Association of Women in the Energy Sector in Kosovo (AWESK), formed by the USAID REPOWER program, in further building and institutionalizing its network of women professionals in the energy sector. Enable AWESK to further implement its mission of empowering women in

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<sup>123</sup> See Farnsworth et al. for KWN, *Who Cares? Demand, Supply, and Options for Expanding Childcare Availability in Kosovo*.



the sector through mentoring, professional skills development, and participation in decision-making.<sup>124</sup>

- Continue to utilize affirmative measures supporting technical studies and internships for women in the sector. Model best practices such as the REPOWER internship program and KEDS Academy, leveraging support from the private sector to establish sustainable academies or institutions to train women and men employees in occupations companies require and need. Such support should be done in tandem with the Millennium Challenge Corporation (MCC).
- Support interested businesses and institutions in the sector to establish child-care within or near their premises, and to establish and operationalize policies enabling work-life balance and anti-sexual harassment policies, both of which could facilitate women's employment, in particular.
- Consider supporting the Ministry of Economic Development and MESP in establishing capacities to conduct gender impact analysis, including through supporting a specific analysis of the differential impact environmental degradation and pollution may have on men and women, particularly related to specific programs and/or investments.<sup>125</sup>

### 3.12.3 PRIVATE SECTOR EMPLOYMENT

- Continue to raise awareness and make a business case about the value of women's participation in economic opportunities.
- Enhance job opportunities and business investments for women in different sectors by facilitating credit, job-specific training, and on-the-job mentoring.
- Continue supporting affirmative measures for higher education and enhanced career planning, such as by: (1) institutionalizing career advisory services at UP; and (2) supporting new forms of informal training based on market needs, to be offered by Ministry of Labour and Social Welfare, in coordination with other donor programs.
- Partner with private sector organizations, particularly those supported by USAID programming, to develop policies for part-time work, flexible hours, and shared jobs.

### 3.12.4 ACCESS TO JUSTICE AND RULE OF LAW

- Move forward with and build upon USAID's planned interventions in the future CDCS explicitly to improve women's access to justice within broader programming related to access to justice and rule of law, thus reflecting the fact that women, in particular, lack access to justice in Kosovo given existing power relations and

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<sup>124</sup> USAID Kosovo Website, "Empowering Women in Kosovo's Energy Sector, July 2017, Website accessed on 15 April 2018, at: <https://www.usaid.gov/news-information/news/empowering-women-kosovo's-energy-sector>.

<sup>125</sup> This should be in close cooperation with AGE, which is developing a tool for gender impact analysis, as well as with the programs in MESP and AGE, supported by Sweden.



inequalities. Potential indicators could include the percent of cases brought forward by women and men that are resolved in a timely manner; and the quality of courts' treatment of cases, in accordance with the legal framework. A sample IR could be more women and men seek access to justice, with an indicator such as the number of women and men who report rights violations to authorities by type of crimes reported (disaggregated by gender-based crimes). Continue planning for the future CDCS to build upon activities planned as part of USAID's new access to justice activity, including:

- Support CSOs in conducting outreach to increase citizens' awareness of their rights and how to access justice, particularly outside Pristina, such as through face-to-face campaigns.
- Support CSOs in improving their abilities to assist citizens in claiming their rights and in monitoring courts to hold them accountable.
- Invest in improving the quality and quantity of legal aid available.
- Continue supporting the University of Pristina (UP), among other universities, in establishing sustainable, and institutionalized, fully locally-financed and operated, free legal aid clinic, involving law students in assisting with access to justice in cases involving gender-based discrimination and violence. This could build the capacities of a future generation of lawyers and judges, while giving women better access to legal aid in the meantime.
- Apply political pressure and support, if needed, to judicial institutions in establishing a functioning interinstitutional database containing gender-disaggregated data on victims and perpetrators, in order to better monitor and track access to justice, towards identifying any potential gender bias in the system.
- Improve awareness and performance of courts, which could include furthering their knowledge and capacities related to access to justice for women in particular, based on the legal framework pertaining to gender equality. This should be coordinated with other actors working in this field, such as the EU, which may have related programming in the future. Sample activities could include:
  - Collaborate with the UP Psychology Department to institutionalize a course related to trauma and justice to train psychologists to serve in courts and the Forensic Institute. This could include a practicum for students carried out in collaboration with these institutions.
  - Support the Academy of Justice and Bar Association to institutionalize required, certifiable sensitization and training on gender equality and the relevant legal framework for all judges, in coordination with the EU and UN Women.

- Support CSOs in developing their expertise in monitoring court cases and holding judges accountable in implementing the relevant legal framework.
- Consider supporting the development of rehabilitation and reintegration programs, including in correctional facilities and as part of probation services, towards preventing recidivism.<sup>126</sup> These programs should contain attention to power relations, gender inequalities, and social norms that contribute to male violence, towards re-socializing perpetrators (primarily men).
- Build on prior and current best practices, as well as the legal framework soon to be established with USAID support related to access to inheritance and property rights for women. A sample indicator for the next CDCS could be the percentage of properties in Kosovo owned, respectively, by women, men, and jointly. Sample activities could include:
  - Support and scale-up the existing best practice of grassroots face-to-face campaigns in which local activists discuss with, and convince, individual families of the benefits of women registering property.
  - Continue to encourage, as an existing best practice, the government of Kosovo to continue the current affirmative measure for the Joint Registration of Property, as well as to provide for new affirmative measures for single women to register property.
  - Support over longer periods of time CSOs in honing their expertise for, and directly providing legal support to, women in claiming their rights, as a proven best practice contributing to women's increased property registration.

### 3.12.5 GOOD GOVERNANCE

- Raise gender equality issues in political dialogues with the Government of Kosovo in relation to specific sectors, encouraging officials to attend to gender inequalities as part of their work and programs.
- Continue programming to improve the quality and quantity of women's participation in politics and decision-making processes at municipal and national levels. In the context of the USAID vision for country transition activities towards sustainability and self-reliance, support local CSO networks in leading women's leadership programs, following on the best practice of the Kosovo Lobby for Gender Equality.
- Improve gender equality and women's participation at the municipal level, by including gender equality criteria in the Municipal Competitiveness Index, if it is renewed.

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<sup>126</sup> This would contribute to implementing the Law on Protection from Domestic Violence and the National Strategy and Action Plan on Protection from Domestic Violence. Any such program should be coordinated with the EU, which has worked some albeit minimally on this, and other actors that may work in this area in the future, as none could be clearly identified at present.

- In close cooperation with AGE and the Kosovo Institute for Public Administration, building on their initial efforts in this regard, sensitize and enhance capacities of GEOs and civil servants in gender analysis and mainstreaming.

## 4. LGBTI ANALYSIS

This section examines the situation of LGBTI persons in Kosovo, focusing on the main issues LGBTI persons and the individuals supporting them have faced. It also identifies lessons learned and best practices for further inclusion of LGBTI persons in Kosovo. Finally, the section seeks to identify gaps in assistance and recommended interventions for future USAID assistance to LGBTI persons and groups.

### 4.1 LAWS, POLICIES, REGULATIONS, AND INSTITUTIONAL PRACTICES

The legal framework pertaining to the rights of LGBTI persons in Kosovo is relatively advanced.<sup>127</sup> The Constitution of the Republic of Kosovo protects and guarantees human rights and fundamental freedoms, including the right of every person to equal legal protection without discrimination due to a person's sexual orientation.<sup>128</sup> The Constitution states that any two people can marry, without specifying sex or gender, suggesting legal protection for same sex marriage.<sup>129</sup> The Law on Protection from Discrimination and Law on Gender Equality include sexual orientation and gender identity as protected characteristics in preventing and combating discrimination.<sup>130</sup>

However, the language of the Constitution is not consistent with the Family Law in relation to same sex marriage. While the Constitution allows every person the right to marry and the right to have a family,<sup>131</sup> the Family Law states that marriage involves a legally registered community of two persons of different sexes.<sup>132</sup> If a same sex couple were to file a request to enter into wedlock with the Municipal Assembly Registrar and if officials refuse such a request, then the case could be taken to the Constitutional Court for strategic litigation. LGBTI rights activists argue that the Family Law of Kosovo can be challenged as discriminatory and in contradiction with the principle of non-discrimination embodied in Article 24 of Kosovo Constitution. However, to date, no cases have challenged the Family Law in light of the Constitutional provisions; thus, no case law exists. While no thorough legal analysis has been conducted to date regarding adoption procedures, also regulated by the Family Law, neither the Family Law nor the Constitution allows or forbids adoption by same sex couples.<sup>133</sup> Such adoption has not yet been challenged by LGBTI individuals or human rights organizations.

If a same sex couple were to seek their right to marriage, strategic litigation could require substantial time. Moreover, deciding to be part of such a high-profile case could involve considerable risk for the individuals involved. Following the “do no harm” principle, therefore, LGBTI organizations have considered an alternative approach to amending the Family Law. Currently, the government of Kosovo is establishing a unified Civil Code for Kosovo. In addition to codifying laws, this process involves adopting or amending legislation in accordance with the

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<sup>127</sup> Review of the legal framework and interviews with diverse respondents, 2018.

<sup>128</sup> Constitution of Republic of Kosovo, Article 24 (1,2)

<sup>129</sup> Constitution of Republic of Kosovo, Article 37 (1)

<sup>130</sup> Law No. 05/L-020 on Gender Equality Article 2 (1,2) and Article 4 (1) and Law No. 05/L-021 on Protection from Discrimination, Article 1 (1), respectively.

<sup>131</sup> Constitution of Republic of Kosovo, Article 37 (1).

<sup>132</sup> Law No. 2004/32, Family Law of Kosovo, Article 14 (1).

<sup>133</sup> Part V.

EU acquis. This process provides an opportunity for amending the Family Law to explicitly include same-sex marriage, better reflecting the values of the Constitution of the Republic of Kosovo.

The Law on Protection from Discrimination and the Law on Gender Equality protect the rights of transgender persons.<sup>134</sup> However, transgender persons still struggle to obtain official recognition of their gender identity in the civil registry and in public documents. Although changing one's sex on official documents is not prohibited explicitly, the Law on Civil Status includes sex as a recognized characteristic which "may be removed, changed, abolished or passed on to others only in cases and manner expressly provided in the existing law or any other specific law".<sup>135</sup> However, the existing law does not clearly state procedures for changing one's sex on official documents, and no other law regulates this issue. This poses practical challenges for transgender persons seeking to change their gender/sex on official documents.<sup>136</sup>

The inability to obtain documents reflecting gender identity and expression constitutes a violation of the rights of transgender persons, as protected by international human rights law, including the International Covenant on Civil and Political Rights<sup>137</sup> and the Convention on the Elimination of All Forms of Discrimination against Women.<sup>138</sup> Establishing clearer legal procedures, including official recognition of a person's gender identity and a sex marker in public registers and identification documents, would be in line with European standards, especially decisions of the European Court of Human Rights. These decisions have repeatedly called for recognition of gender identity and its conditions, by strengthening the human rights of transgender persons (namely privacy, the right to a fair trial, and the right not to be discriminated against based on international instruments).

The Criminal Code of Kosovo (CCK) provides for an aggravated circumstance in the calculation of the punishment "if the criminal offence is committed against a person, group of persons, or property because of [...] gender, sexual orientation, or because of their affinity with persons who have the aforementioned characteristics".<sup>139</sup> However, the Criminal Code of Kosovo has several shortcomings with regard to hate crimes perpetrated against LGBTI persons. Since the current Criminal Code does not clearly define which acts constitute hate crimes, it has been difficult for LGBTI victims to seek justice for hate acts.<sup>140</sup> Therefore, LGBTI CSOs supported by other human rights organizations have proposed amendments to the Criminal Code, including a clearer definition of what constitutes a "hate act" and inclusion of sexual orientation and gender identity in this Code, based on international standards for combating hate crimes against LGBTI

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<sup>134</sup> Article 1 and Article 2 and 4, respectively.

<sup>135</sup> Law no. 04/L-003, On Civil Status, Article 10. Notably, in all accuracy the law should refer to "sex"; however, in the Albanian language versions of several laws, sex and gender are often confused. While the Law on Gender Equality clearly defines these terms, articles of other laws often refer to sex, but incorrectly use the term "gender". The correct term is used here.

<sup>136</sup> Notably, official documents regularly confuse the meaning of this term. For example, personal identification cards use the term "sex" in English next to the term "*Gjinia*" in Albanian, which directly translates as "gender".

<sup>137</sup> International Covenant on Civil and Political Rights, Article 16.

<sup>138</sup> Convention on the Elimination of All Forms of Discrimination against Women, Article 15.

<sup>139</sup> Article 74, paragraph 2.12.

<sup>140</sup> Interview, 2018.

persons.<sup>141</sup> As mentioned, the process of amending the Criminal Code of Kosovo is already under way.

Several institutions have a legal responsibility to protect and promote the rights of LGBTI persons. The Office of Good Governance, Human Rights, Equal Opportunities and Non-discrimination (OGG) within the Office of the Prime Minister, is responsible for supporting the implementation of the Law on Protection from Discrimination.<sup>142</sup> Among other responsibilities, OGG must advise the Government regarding issues related to protection from discrimination; monitor implementation of the Ombudsperson's recommendations; draft policies, strategies, and action plans; and collect statistical and other data. The Assembly Committee on Human Rights, Gender Equality, Missing Persons and Petitions oversees the implementation of relevant laws that prohibit discrimination and promote gender equality.

The Ombudsperson Institution is “a legal mechanism for protection, supervision and promotion of fundamental rights and freedoms of natural and legal persons from illegal actions or failures to act and improper actions of public authorities, institutions and persons or other bodies and organizations exercising public authorizations in the Republic of Kosovo.” Further, “the Ombudsperson is an equality mechanism for promotion, monitoring and support of equal treatment without discrimination on bases protected by the Law on Gender Equality and the Law on Protection from Discrimination.”<sup>143</sup>

The inter-ministerial Advisory and Coordination Group for LGBTI Rights in Kosovo drafted a National Action Plan (NAP) for LGBTI persons. OGG, as a secretariat, is responsible for monitoring and reporting on implementation of the Plan.<sup>144</sup>

Human Rights Officers should promote human rights and protection from discrimination within their respective ministries or municipalities, monitor implementation of the Ombudsperson's recommendations, and provide advice and recommendations to the ministry/municipality, among other tasks.<sup>145</sup> If an official of an institution allegedly discriminates against a person or legal entity, the Human Rights Officer can file a complaint with the Ombudsperson or respective court.

The package of laws for Human Rights, including the Law on Protection from Discrimination, Law on Gender Equality, and Law on Ombudsperson, only went into effect in July 2015.

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<sup>141</sup> More specifically, proposals tentatively approved by the working group for the amendment of the Criminal Code of Kosovo pertain to: Article 74 - General Rules for Mitigation or Aggravation of Punishments, Article 179 - Aggravated Murder, Article 188 - Light bodily injury, Article 188 - Grievous bodily injury, and Article 333 - Destruction or Damage to Property. The proposed definition of hate act is: “the offense is a hate act, which means any offense committed against a person, group of persons or property, motivated by race, color, sex, gender, gender identity, language, religion, national or social origin, affiliation with any property, economic status, sexual orientation, birth, disability or other personal status, or because of their affinity with persons who have the aforementioned characteristics, except if one of the enumerated characteristics constitutes an element of a criminal offense.”

<sup>142</sup> Law on Protection from Discrimination, Article 10.

<sup>143</sup> Law on Ombudsperson, Article 1.

<sup>144</sup> Prime Ministers Office, Decision no.05/161, 18 December 2013, point 6.

<sup>145</sup> Government Regulation No. 03/2017.

Therefore, it is still rather early to evaluate the implementation of these laws.<sup>146</sup> Very few cases have been brought forward, so there is still a need to test the implementation of this legal framework.

Kosovars seem to accept human rights as a general concept. However, the society tends to make a distinction between human rights and LGBTI rights, which are not necessarily considered a universal right. For some, LGBTI rights are seen as an imported product that has been pushed by foreigners.<sup>147</sup> In some instances, public discourse has even attempted to deny the existence of LGBTI people in Kosovo and their rights.<sup>148</sup> Therefore, a major challenge to implementing the existing legal framework relates to social gender norms, which also impact LGBTI persons (as elaborated in the next section).

Another challenge to implementing the existing legal framework is a general lack of political support for implementing relevant laws protecting LGBTI rights. Given that they were socialized with the same gender norms, politicians do not generally consider LGBTI rights a priority. Thus, the government has not adequately promoted the legal rights of LGBTI persons. Public officials, especially at the local level, also lack awareness regarding the existing legislation protecting the rights of LGBTI persons and how to implement it in their everyday work.<sup>149</sup>

*“Courts reflect ... the mentality of ordinary people”*

*– Representative of international organization*

In addition, few LGBTI persons are aware that several laws guarantee and protect their rights. A lack of awareness contributes to underreporting of rights violations. Reporting of hate crime and discrimination cases is also low, due to victims’ fear that officials will not maintain confidentiality and ensure sufficient protection following reporting. LGBTI persons, particularly those who live outside Pristina, fear further stigmatization by their families and communities should such hate crimes be made public.<sup>150</sup>

*“If you report a case in smaller cities, the fear is that someone you know will be working as a police officer, and then probably will ask you, ‘Oh, are you Skender’s daughter?’”*

*– LGBT person*

Many prosecutors and judges also seem unfamiliar with the human rights package of laws.<sup>151</sup> According to the focal point prosecutor for LGBTI issues, prosecutors have not received sufficient training and lack tools for investigating crimes and interviewing LGBTI victims.<sup>152</sup> Thus, they do not treat these cases as they should. Moreover, since police, prosecutors, and judges also have been socialized in this

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<sup>146</sup> Interviews, 2018.

<sup>147</sup> Interviews, 2018.

<sup>148</sup> Interviews with diverse actors, including experiences of LGBTI organizations in working with institutions.

<sup>149</sup> Interviews with CEL and CSGD.

<sup>150</sup> Focus group with LGBTI persons, 2018.

<sup>151</sup> Interviews with representatives of institutions working closely with judges.

<sup>152</sup> Interviews with LGBTI organizations.



same society, they also may have negative perceptions of LGBTI persons, undermining their ability to adequately enforce the rule of law.

Further, in Kosovo, the parliament remains weak in monitoring and overseeing implementation of the legal framework. The parliamentary Committee on Human Rights, Gender Equality, Missing Persons, and Petitions, for example, has never monitored implementation of the laws guaranteeing the rights of Kosovo citizens. In addition, this Committee has a hearing only once per year, when the Ombudsperson presents its annual report regarding human rights violations.

The inter-ministerial Advisory and Coordination Group for LGBTI Rights in Kosovo drafted the NAP for the period of November 2016 to November 2018. The NAP tackles very important areas related to LGBTI issues, such as education, health, and rule of law. However, the government has not requested, nor the parliament allocated, sufficient budget for NAP implementation; nor has the government monitored NAP implementation. The Committee on Human Rights, Gender Equality, Missing Persons, and Petitions has never invited OGG to report on progress and implementation of national strategies and/or action plans. Therefore, the institutions responsible for NAP implementation have not been held accountable for implementing activities in the NAP for which they are responsible. Most responsible persons and institutions lack the necessary expertise and qualifications. Government representatives on the Advisory and Coordination Group have no executive competencies and are not taken seriously by their supervisors, which hamper their ability to further implement the NAP. The only NAP activities that have been implemented are those for which CSOs were responsible.

While in theory disciplinary measures should exist for public servants and service providers who discriminate against persons based on their gender identity or sexuality, little research or examples exist as to whether these measures have been used. Again, this derives from the aforementioned issues related to low reporting. The Law on the Civil Service provides disciplinary measures when a civil servant is accountable for any breaches of the principles as are established by the law.<sup>153</sup> For minor violations, the disciplinary measures that can be taken are: warning or written notice issued by the supervisor, warning notice with inscription in the personal record issued by the body in charge of the personnel management within the institution. For serious violations, the disciplinary measures that can be taken are: preventive suspension with pay up to three months, punitive suspension of duties and withholding of one third of salary for up to two months, removal from office and disciplinary transfer to other location with similar duties, termination of the working relationship by the disciplinary commission or early retirement for those Civil Servants that have two years left prior to the date of retirement.<sup>154</sup>

## **4.2 SOCIOCULTURAL NORMS AND BELIEFS**

As explained, Kosovo remains a patriarchal, conservative society with specific, socially established roles for women and men, respectively.<sup>155</sup> These socially constructed roles ascribe women a primarily reproductive and care-taking role, and men the responsibility to continue the bloodline and provide for the family. Homosexuality disrupts these norms and the prevalent

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<sup>153</sup> Law no. 03/L-149, Law on the Civil Service of the Republic of Kosovo, Article 64.

<sup>154</sup> Ibid, Article 67.

<sup>155</sup> See Section 3.2.

notion of the family, as LGBTI persons are not seen as able to contribute directly to reproduction in a socially acceptable manner. Transgender and intersex persons challenge hard-held, socially established beliefs that women and men have particular roles in the society. As these roles are considered “naturally” established by biological sex at birth, changing one’s sex or gender is broadly considered meddling with nature and disrupting what is “natural.” When it comes to gay-men, bisexual-men, and trans-women, challenges relate to the concept of masculinity: these persons may not always “fit” within the socially ascribed gender norms regarding how “men” should look, act, and engage with others.

Religious teachings may affect the socialization process of some people, even though Kosovo remains primarily a secular society. Historical religious teachings may have contributed to shaping present-day culture and beliefs, even among non-practitioners. In this way, religion may affect how some people in Kosovo perceive and thus treat LGBTI persons. Religious leaders from the three most prominent religions in Kosovo—Islam, Roman Catholicism, and Orthodox—tend to agree that involvement in a homosexual relationship is a “sin.”

*“No one should be discriminated against, nor should they have their rights violated. However, we are against the public promotion of this behavior. As for the faithful, it is considered that this is a sin as any other sin.”*

*- Religious leader*

Religious leaders generally declare that LGBTI persons are not excluded from participating in religion if they wish to, and they try to assist LGBTI persons in seeing the “sin” in their ways. They state firmly that LGBTI individuals are people, sinning as others, and that the society must not discriminate against them. All religious leaders state that they firmly oppose any form of violence, including that perpetrated against LGBTI persons. However, religious leaders strongly condemn the public promotion of LGBTI rights, including discussion of LGBTI rights in schools.

Lesbians, bisexual women, and trans-women face double discrimination; they must confront the same issues as other women, as well as the added social stigma of being LGBTI. However, LGBTI persons say that their own experience suggests that society tends to accept lesbians more than gay men, due to the particular patriarchal values attached to “masculinity.”<sup>156</sup>

Overall, more than 90 percent of Kosovars are homophobic.<sup>157</sup> A regional poll conducted in 2015 confirmed that most people will stop communicating with someone if they learn that person is LGBTI, and that prejudices and stereotypes regarding LGBTI persons are very deep and widespread.<sup>158</sup> Social disapproval of persons who are different, often materialized as homophobia, can contribute to discrimination against LGBTI persons. In the public space, LGBTI persons are protected from abuse only if they are not open about their sexuality or do not display what are perceived as “homosexual” traits, such as masculine/feminine behavior or style.

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<sup>156</sup> Focus group with LGBTI persons, 2018.

<sup>157</sup> National Democratic Institute, *LGBTI Public Opinion Poll in Western Balkans, June/July 2015*, [https://www.ndi.org/LGBTI\\_Balkans\\_poll](https://www.ndi.org/LGBTI_Balkans_poll), pg. 23-24.

<sup>158</sup> Ibid.

Thus, most LGBTI people do not come out, because they are likely to face discrimination, bullying, and lose rights within their families.<sup>159</sup>

### 4.3 KEY ISSUES FACED BY LGBTI PERSONS

The aforementioned social stigmatization by a largely homophobic society, as noted, contributes to fear among LGBTI persons that they may face discrimination and violence, both at home and in public spaces. LGBTI persons report issues related to domestic violence, accessing education, employment, participation in politics, healthcare, and justice, as discussed in this section.

*“The first thing they think, is that this is a disease. [For women,] elementary school, high school, university, work, husband, children and death: these are supposed to be the only steps of your life.”*

*– Woman participant in LGBTI Focus group*

#### 4.3.1 PHYSICAL WELLBEING AND VIOLENCE

LGBTI persons and people perceived as LGBTI report instances of experiencing psychological and physical violence from family members, with attacks and threats against LGBTI persons and activists not uncommon.<sup>160</sup> When asked in a recent survey, “What is the most dangerous place for you?”, more than 70 percent of LGBTI persons responded, “home.”<sup>161</sup>

In the last three years, at least three death threats have targeted LGBTI activists after they made public statements on International Coming Out Day. After commenting on the situation regarding LGBTI rights on Facebook, another LGBTI activist suffered public intimidation. Also, following the Pride Parade, LGBTI activists received threatening and insulting comments via social networks; one received nearly 130 such messages.<sup>162</sup>

#### 4.3.2 EDUCATION

Many LGBTI persons report facing stigmatization within the education system.<sup>163</sup> As members of Kosovo society, teachers typically lack awareness about LGBTI persons and have biases. In one textbook, homosexuality is considered a deviation, disorder, or illness.<sup>164</sup> Also, textbooks present a traditional and monolithic model of the family, which only includes a man and a woman. Same-sex couples are not reflected.<sup>165</sup> In addition, when LGBTI activists have sought to inform youth about LGBTI rights, some have faced resistance from school officials. In one case, a school director did not allow activists to present a lecture to students on LGBTI issues, stating that he does not want to allow such “degenerative” discussions.

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<sup>159</sup> Ibid. Also, see the sections that follow.

<sup>160</sup> Interviews and KWN, *No More Excuses*, p. 54.

<sup>161</sup> KWN, *No More Excuses*, p. 54.

<sup>162</sup> CSGD and CEL, “Reflection on LGBTI Rights in Kosovo – Annual Report”, December 2016, and CSGD, “Lookback: The LGBTI community and their rights in Kosovo”, December 2017.

<sup>163</sup> Focus group with LGBTI persons, 2018.

<sup>164</sup> YIHR KS, “Discriminatory Language in Textbooks”, November 2017, pg. 17.

<sup>165</sup> Interview, 2018.

Young LGBTI persons report that bullying is among their greatest concerns.<sup>166</sup> Although no research has examined bullying closely, evidence from LGBTI persons suggests that it exists. Victims fear reporting it because they do not trust public institutions. Moreover, they are afraid that they will receive even worse treatment from their friends and teachers if their sexual orientation or gender identity is known.

*“One thing that people should understand is that homosexuality is not a disease. There are many successful people who are LGBT persons. How can you be sick if you have a GPA of 9.0?”*

*– Participant in LGBTI focus group*

#### 4.3.3 ECONOMIC WELLBEING AND EMPLOYMENT

Since few LGBTI persons come out to their colleagues, friends, or supervisors, it is difficult to know which challenges LGBTI persons may face securing employment.<sup>167</sup> In one known case, an owner of a company immediately terminated employment upon realizing that an employee was gay. The employee filed an official complaint of job discrimination based on sexual orientation with the Labor Inspectorate and the Ombudsperson; the case will soon be filed at the Pristina Basic Court. Other similar cases may well exist.<sup>168</sup>

For some occupations in Kosovo, stereotypes exist regarding employees’ visual appearances. For example, gay men said that it can be difficult to get jobs as waiters, because people who look more feminine do not fit the stereotypically “masculine” image of a waiter. In fact, lesbians who look more masculine can be hired as waitresses more easily than gay men, according to some respondents, because people perceive them as “cool” and “tough.”<sup>169</sup>

When respondents in public institutions were asked what would be the reactions of their colleagues if a person came out as lesbian, gay, bisexual or transgender, some responded that they would not feel comfortable working with a LGBTI person.<sup>170</sup> Others did not have any concrete answer but assumed there would be no problems.

Some LGBTI persons rely on their family members for economic support, often living difficult double lives. They do not dare come out to their families, for fear they will no longer receive the financial support they need, which includes the potential to be denied their right to property and possibly to be expelled from their home.

#### 4.3.4 HEALTHCARE

LGBTI persons reported that in some instances healthcare providers refused to provide services to LGBTI persons or referred them to others for treatment. In one case, when an LGBTI person went to a psychiatrist for sleep problems and revealed she was a lesbian, the psychiatrist argued

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<sup>166</sup> Focus group with LGBTI persons, 2018.

<sup>167</sup> Interview with LGBTI CSO, 2018.

<sup>168</sup> Ibid.

<sup>169</sup> Focus group with LGBTI persons, 2018.

<sup>170</sup> Interviews, 2018.

that her sexual orientation was the source of her problems.<sup>171</sup> Another LGBTI focus group participant stated that she had received improper treatment from a gynecologist due to her sexuality. In other cases, healthcare providers referred LGBTI patients for psychological or psychiatric treatment explicitly because they believed the real healthcare issue was their sexuality.<sup>172</sup> These examples suggest that healthcare providers' failures to deliver appropriate services stems from the inability to abandon personal beliefs. While healthcare professionals tend to be aware that everyone should be treated equally, without discrimination, they still do not act appropriately.<sup>173</sup>

#### 4.3.5 PARTICIPATION IN POLITICS AND DECISION-MAKING

Political parties tend not to want to discuss LGBTI issues, because they fear this might cost them voters.<sup>174</sup> An NDI poll affirmed that 60 percent of people in Kosovo will not vote for a political party that supports LGBTI rights.<sup>175</sup> NDI shares voter perception data with political parties in order to inform their programming. Thus, politicians may not promote or protect LGBTI persons and their rights for fear of losing voters.<sup>176</sup> It follows that parties likely would not welcome openly LGBTI persons as candidates.

Concern over losing voters may also contribute to official resistance to meet with LGBTI persons, towards involving them more in decision-making processes. For example, during a meeting with LGBTI CSO representatives, one former mayor said that he was “forced” by international institutions to have the meeting; otherwise he would not have done it because he would lose votes. This attitude was further reflected by the fact that no municipal leaders participated in the pride parade that occurred during the election campaign.

#### 4.3.6 ACCESS TO JUSTICE

Officially, from 2012 through 2017, a total of 20 cases of violence against LGBTI persons were reported to Kosovo police stations. This contrasts with more than 30 cases of hate crimes, discrimination, and domestic violence reported to LGBTI organizations during the same period, including those reported to police. During a focus group, LGBTI persons elaborated several other cases of discrimination and bullying that they and their fellow LGBTI persons had experienced, almost none of which they had reported to police.

While insufficient information exists regarding the reasons why so few cases have been reported to police and CSOs, LGBTI representatives provided several reasons for underreporting. First, LGBTI persons have hesitated to report cases to anyone except organizations working directly with them, due to lack of trust. According to LGBTI organizations, victims do not wish to report cases to police out of concern that police would learn of their sexual orientation or gender identity, and that this information might not remain confidential. Second, LGBTI persons tend to

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<sup>171</sup> Focus group with LGBTI persons, 2018.

<sup>172</sup> Ibid.

<sup>173</sup> CSGD and CEL, "Access to Healthcare and Social Protection", November 2016.

<sup>174</sup> Interview with LGBTI CSO.

<sup>175</sup> National Democratic Institute, LGBTI Public Opinion Poll in Western Balkans, June/July 2015, (2015), [https://www.ndi.org/LGBTI\\_Balkans\\_poll](https://www.ndi.org/LGBTI_Balkans_poll).

<sup>176</sup> Interviews, 2018.

be unaware of their rights and lack information regarding existing laws and institutions that protect their rights and dignity. Third, LGBTI persons often lack support and legal aid when seeking to claim their rights. The Kosovo Agency for Free Legal Aid, for example, stated they have never had any case involving a violation of LGBTI rights reported, out of some 35,000 cases they have pursued from the establishment of the Agency through 2017. The only bodies offering legal aid and access to justice for LGBTI persons are the Center for Social Group Development (CSGD) and the Center for Equality and Liberty (CEL). Other organizations offering legal aid have either denied support to LGBTI persons or lacked adequate information pertaining to LGBTI persons' rights.<sup>177</sup>

In the last two years alone, LGBTI persons have reported to LGBTI organizations 14 cases of rights violations (five hate crimes, four of domestic violence, two of discrimination, and three threats). Eight of these cases were reported to police. Of the cases reported to police, only three have gone to court. The other cases remain “under investigation”. In one of the three cases that went to court, the basic court ruled in favor of the perpetrator. The case was appealed to the Appeals Court, which had a similar verdict. The case was closed in favor of the alleged perpetrator. In the second case, the court judgment did not consider the motive of the crime and failed to establish that a criminal offence was committed due to the victim's sexual orientation. The victim appealed his case at the Appeals Court, but there is no feedback on the case as yet.<sup>178</sup> Little information exists regarding the status of this or the third case that is still pending.

Several factors undermine access to justice. In some cases, the police and prosecutors did not consider the motivation of the perpetrator and the case was not considered to be based on sexual orientation or gender identity. Exchange of information between police and prosecutors is also often lacking, with insufficient evidence in some cases to qualify them as hate crime cases. This has further discouraged victims from seeking to realize their rights. Some LGBTI persons, as noted, do not proceed with their case after reporting it to police due to fear that their identity may be disclosed. There is no information as to whether police officers “hide” such cases rather than sending them to court, which may well happen in the case of prosecutors not being willing to deal with human rights violation cases when the victims are LGBTI persons.<sup>179</sup>

#### 4.3.7 SOCIAL WELLBEING

Social workers within municipal Centers for Social Work lack sufficient professional qualifications for offering quality social services to LGBTI persons. Social workers tend not to want to deal with LGBTI persons.<sup>180</sup> While the Ministry for Labor and Social Welfare is responsible for providing protection for persons who have suffered domestic violence, currently no shelters offer specialized assistance for LGBTI persons who have suffered domestic violence. Shelters designated for women who have suffered domestic violence will shelter lesbians. However, gay men or transgender persons who face domestic violence or discrimination have no shelter in Kosovo. The nearest such shelter is located in Albania. In 2016-2017, LGBTI CSOs assisted four victims in reaching the LGBTI shelter in Albania. Thus, LGBTI persons living in

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<sup>177</sup> Interview with CEL representative.

<sup>178</sup> Interview with CSGD representative.

<sup>179</sup> Interview with CSGD representative.

<sup>180</sup> Interview with CEL and CSGD representatives.



violent home situations or suffering violence from family members because of their sexual orientation or gender identity do not have sufficient state protection at present.

#### 4.3.8 CSOS SUPPORTING LGBTI PERSONS

LGBTI CSOs have prioritized and focused their efforts on monitoring and advocating for the implementation of the Law on Protection from Discrimination, Law on Gender Equality, and NAP for LGBTI rights. They are closely monitoring the process of amending the Criminal Code of Kosovo. They also are focusing efforts on clarifying, and then proposing and implementing provisions of, the Law on Civil Status, which will make it possible for transgender persons to change the sex mark in their identification documents and civil registry. The Family Law will be a future area of attention. Other areas of focus for LGBTI organizations are general awareness on LGBTI issues by organizing visible/public activities such as Pride Week and public cultural activities for the International Day Against Homophobia and Transphobia. The empowerment of LGBTI persons is another key area LGBTI organizations are working on, with activism and leadership programs.

The main issue facing LGBTI organizations is uncertain financial support. Most donors support projects lasting one to two years. Changing social and institutional norms, attitudes, and beliefs takes much longer, however. Very few donors support projects related to LGBTI issues in general, and the Kosovo government is not willing to take ownership and finance these organizations, either. Insufficient funds forced one LGBTI organization to close in 2017. Also, considering the myriad issues facing LGBTI persons, there are too few organizations for addressing all of these issues.

Two organizations currently offer services for LGBTI persons that include legal aid, access to justice, psychological sessions, health services, and other social services. Since organizations tend to focus on advocacy, targeting institutions, and society in general, the danger is that the focus on services for LGBTI persons might be overlooked. Indeed, LGBTI persons living in most areas of Kosovo, particularly outside Pristina, have little to no access to assistance from any LGBTI organization.<sup>181</sup> LGBTI CSOs lack sufficient resources to reach out to strengthen relationships with their constituents. Particularly in northern Kosovo, security concerns within the small community make it difficult for LGBTI organizations to establish a presence. LGBTI persons appear to be particularly isolated there and in other rural areas of Kosovo.

#### 4.4 LESSONS LEARNED FROM PRIOR USAID PROGRAMMING

The “LGBTI community” is a target group in the current USAID CDCS as part of civil-society promotion under the Rule of Law DO 1.<sup>182</sup> Previously, USAID/Kosovo: (1) worked with local organizations to support projects such as needs assessments for the LGBTI community;<sup>183</sup> (2) conducted teacher trainings to build awareness of LGBTI issues;<sup>184</sup> (3) led activities to promote

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<sup>181</sup> Focus group with LGBTI persons, 2018.

<sup>182</sup> USAID, *Kosovo: 2014-2018 Country Development Cooperation Strategy*.

<sup>183</sup> USAID, *Mapping and Needs Assessment of the LGBT Community in Kosovo and in Bosnia and Herzegovina*.

<sup>184</sup> Nurre, Bridget, *Teaching Tolerance: A Lesson for Kosovo’s Educators in LGBT Awareness*, USAID, 10 December 2014, <https://blog.usaid.gov/2014/12/teaching-tolerance-a-lesson-for-kosovos-educators-in-lgbt-awareness/>.



LGBTI visibility; (4) supported LGBTI organizations and activists through the Engagement for Equity (E4E) program; and (5) sought to mainstream attention to LGBTI persons within some of its programs, such as by providing affirmative measures for LGBT persons to study abroad as part of the Transformational Leadership Program. Additionally, Kosovo was part of USAID's regional LGBTI issues analysis.<sup>185</sup>

A review of 16 PMPs regarding their inclusion of issues pertaining to LGBTI persons revealed that none of the PMPs contained objectives or indicators related to LGBTI persons. The assessment team further reviewed assessment/monitoring and evaluation reports for nine different USAID programs to evaluate how issues pertaining to LGBTI issues were reflected. Out of the nine reports, five did not contain any objectives focusing on LGBTI issues/persons, and eight did not contain indicators.

Conversations with LGBTI persons suggest that perhaps USAID did not consult sufficiently with LGBTI persons during the process of designing programs. In some instances, this may have contributed, albeit unintentionally, to discomfort among LGBTI persons. For example, LGBTI persons stated that they did not support the affirmative measure to provide LGBTI persons with additional points when scoring applications for participation in the Transformational Leadership Program. This is because they did not feel that LGBTI persons should have to talk openly about their private lives, or that their sexual orientation or gender identity should need to be discussed as part of these processes. Rather, they preferred to be treated with the same right to privacy as all other candidates.

#### **4.5 OTHER DONORS' CURRENT AND PLANNED PROGRAMS AND GAPS IN ASSISTANCE**

The international donors and actors that currently support projects directly focused on LGBTI rights are few. This contributes to financial insecurity among organizations, which fear closing. The major international donors identified to be directly financing LGBTI initiatives are the European Union, Embassy of the Netherlands, and Austrian Development Agency. Other national and international actors that support LGBTI projects are the Advocacy Training and Resource Center through USAID grants, Community Development Fund through the Global Fund grants, Civil Rights Defenders through Sida grants, and the Kosovo Civil Society Foundation through Democratic Society Promotion grants.

#### **4.6 CONCLUSIONS LGBTI**

##### **4.6.1 WEAKNESSES, CHALLENGES, AND KEY CONSTRAINTS**

Key challenges include remaining shortcomings with the legal framework, and insufficient willingness of institutions to implement it. Underlying causes include social norms that contribute to homophobia and insufficient education about LGBTI persons and their rights. Social norms contribute to discrimination, harassment, and hate crimes perpetrated against LGBTI persons. The same social norms combined with insufficient education mean that institutions responsible for education, healthcare, and justice often fail to ensure services and

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<sup>185</sup> USAID, *Testing the Waters: LGBT People in the Europe and Eastern Europe Region*.

access to justice for LGBTI persons. LGBTI organizations lack sufficient long-term support for their work, as well as for reaching out to more constituents. The plethora of issues facing LGBTI persons, and the small number of people engaged in addressing these issues could contribute to burn-out among activists.

#### **4.6.2 STRENGTHS AND BEST PRACTICES IN SUPPORTING LGBTI PERSONS**

Prior best practices have included the Pride Parade and other similar visible activities that promote the rights of LGBTI persons. Direct involvement of international actors also has been important for influencing government and public institutions' agendas and working towards addressing issues faced by LGBTI persons. In the past, embassies and positive donor coordination efforts have created spaces for donors and CSOs to share information, coordinate actions, and undertake joint activities. In the few instances in which donors like the EU have funded CSOs in implementing their long-term strategies, rather than only short-term projects, this has enabled CSOs to focus on activities that have had more significant impact.

#### **4.6.3 OPPORTUNITIES FOR USAID ASSISTANCE TO LGBTI PERSONS IN THE NEW STRATEGY**

USAID can continue to support LGBTI organizations in their initiatives to amend and test the implementation of laws, national strategies, programs, and action plans relevant to LGBTI rights. Creation of a comprehensive civil code offers an opportunity to address inconsistencies between the Constitution and the Family Law. Opportunities also exist to build capacities of local CSOs working with LGBTI persons via long-term support to implementing their strategies, as an observed best practice. Additional opportunities are elaborated in the next section.

### **4.7 RECOMMENDATIONS FOR SUPPORTING LGBTI PERSONS**

#### **4.7.1 GENERAL RECOMMENDATIONS**

- Where relevant, conduct LGBTI analyses to inform initial program design, not only program implementation. Then, continue to incorporate LGBTI rights as an integral component of program design, implementation, evaluation, and documentation.
- Consult more with LGBTI groups in designing and implementing programs, recognize their expertise and the time it takes for them to contribute to programming.
- Maintain coordination with other donors and stakeholders on issues related to LGBTI rights.
- Support initiatives to increase knowledge and awareness regarding LGBTI rights.
- Support CSOs in implementing their mid-term strategies rather than short-term projects, providing mid- to long-term financial institutional support. This includes supporting CSOs in providing outreach and services outside Pristina, reaching constituents and empowering LGBTI persons. Also, consider directly supporting CSOs in their initiatives for proposing or amending laws, policies, strategies, and action plans that can further the rights of LGBTI persons.

#### 4.7.2 EDUCATION

- Support ongoing revisions to and the roll-out of pre-school and primary school education curricula that challenges current gender roles and norms. Teaching different understandings of “being a man,” “being a woman,” and loving who one wants to love can all contribute to shifting existing gender norms and roles that underpin the existing discrimination and violence against LGBTI persons.
- Support MEST in institutionalizing capacity building for school directors, teachers and psychologists in understanding LGBTI issues, supporting LGBTI youth, and reducing bullying of LGBTI youth in schools.
- Work with MEST and LGBTI organizations to enhance primary and secondary school education curricula to better incorporate understanding of civil rights, including of LGBTI persons.
- Work closely with the Faculty of Law at the university to improve curricula and teaching related to international instruments and principles of human rights, including of LGBTI persons.

#### 4.7.3 DEMOCRACY

- Encourage the Committee on Human Rights, Gender Equality, Missing Persons and Petitions to monitor laws, strategies, and action plans that guarantee the exercise of rights for LGBTI persons.
- Work with the Government of Kosovo, Advisory and Coordination Group, and CSOs to ensure implementation of the Kosovo legal framework that protects the rights of LGBTI persons.
- Ensure implementation of the “do no harm” principle in sharing voter preferences with political parties, as such information may binder politicians’ support and promotion of the rights of LGBTI persons.
- Encourage political parties to include civil rights, including LGBTI rights, on their agenda as a priority and to promote LGBTI rights publicly.

#### 4.7.4 RULE OF LAW

- Support CSOs to continue offering free legal aid, empowering LGBTI persons to report rights violations and to realize their rights.
- Collaborate closely with other donors and stakeholders to sensitize and build the capacities of police, prosecutors, and judges related to the relevant legal framework, enhancing their ability to implement the new criminal code following its adoption, international agreements and instruments, and other laws that guarantee the rights of LGBTI persons. Build the capacities of prosecutors and judges for advanced investigation techniques when dealing with LGBTI persons as hate crime victims.

Support further research into public institutions knowledge, attitudes, and treatment of LGBTI persons. This could include monitoring the implementation of anti-discrimination provisions by various civil servants when providing public services, as well as the extent to which disciplinary procedures have been implemented in cases of discrimination. Findings and recommendations could inform future steps in addressing discrimination against LGBTI persons in accessing public services.

## 5. PERSONS WITH DISABILITIES ANALYSIS

This section examines the situation of persons with disabilities in Kosovo (PWD), including the main issues that PWD face. After presenting findings, the section contains conclusions and recommendations for further inclusion of PWD in Kosovo, particularly related to USAID programming.

### 5.1 LAWS, POLICIES, REGULATIONS, AND INSTITUTIONAL PRACTICES

The legal framework of the Republic of Kosovo provides equal rights, opportunities, and non-discrimination to PWD. Article 24 of the Constitution of the Republic of Kosovo guarantees equality before the law, legal protection, and absence of discrimination for citizens from all backgrounds, specifically referring to PWD. Further, Article 51 guarantees basic social insurance for PWD.

The Law on Disability Pensions in Kosovo ensures pensions for all persons living with disabilities. This law sets forth all criteria, the application and appeals processes, and the institutions and mechanisms responsible for providing disability pensions.<sup>186</sup> The Law on Vocational Ability, Rehabilitation, and Employment of People with Disabilities determines the conditions, rights, and forms of rehabilitation employment, and vocational ability of PWD to encourage their integration into the labor market.<sup>187</sup> The law prohibits employers from discriminating against and excluding PWD from the labor market.<sup>188</sup> Specifically, Law No. 04/L-092 for Blind Persons regulates all benefits and rights of blind persons and determines the categorization criteria.<sup>189</sup> The same law regulates the right to pensions for blind persons and their companions/assistants. Law No.05/L-025 on Mental Health guarantees the rights of persons living with mental health issues and disorders, as well as promotes and protects the rights of persons with mental disabilities.<sup>190</sup>

Law No.03/L-022 on Material Support for Families of Children with Permanent Disability regulates the right to financial support for families with, and/or who care for, children who have permanent disabilities.<sup>191</sup> The law defines children with “permanent disabilities” as children who are blind or who have conditions that prevent them from moving independently, using tools, or conducting daily activities independently, such as eating, dressing, or maintaining personal hygiene or physiological needs.<sup>192</sup>

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<sup>186</sup> Assembly of the Republic of Kosovo, Law No. 2003/23 on Disability Pensions in Kosovo, 2003, [https://www.kuvendikosoves.org/common/docs/ligjet/2003\\_23\\_en.pdf](https://www.kuvendikosoves.org/common/docs/ligjet/2003_23_en.pdf).

<sup>187</sup> Assembly of the Republic of Kosovo, Law No. 03/L-019 on Vocational Ability, Rehabilitation and Employment of People with Disabilities, 2009, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2620>.

<sup>188</sup> Ibid. Article 5.

<sup>189</sup> Assembly of the Republic of Kosovo, Law No. 04/L-092 for Blind Persons, 2012, [www.kuvendikosoves.org/common/docs/ligjet/Law%20for%20blind%20%20persons.pdf](http://www.kuvendikosoves.org/common/docs/ligjet/Law%20for%20blind%20%20persons.pdf).

<sup>190</sup> Assembly of the Republic of Kosovo, Law No.05/L-025 on Mental Health, 2015, [www.assembly-kosova.org/common/docs/ligjet/05-L-025%20a.pdf](http://www.assembly-kosova.org/common/docs/ligjet/05-L-025%20a.pdf).

<sup>191</sup> Assembly of the Republic of Kosovo, Law No.03/L-022 on Material Support for families of children with permanent disability, 2008, [www.gazetazyrtare.com/e-gov/index.php?option=com\\_content&task=view&id=260&Itemid=28&lang=en](http://www.gazetazyrtare.com/e-gov/index.php?option=com_content&task=view&id=260&Itemid=28&lang=en).

<sup>192</sup> Ibid. Article 6.

In 2012, the Office for Good Governance within the Prime Minister's Office established the National Strategy on the Rights of Persons with Disabilities in the Republic of Kosovo 2013-2023.<sup>193</sup> The Strategy provides guidelines to protect, empower, and promote the rights of PWD. It aims to address obstacles faced by PWD in all areas of social and public life. The Office further established two monitoring and reporting mechanisms: the National Disability Council and the Committee on Monitoring, Reporting, and Evaluating the National Strategy on the Rights of People with Disabilities. Some municipalities have created strategies and action plans at the municipal level to implement the National Strategy.

*“Practically the entire legal framework of Kosovo is incompatible with the needs of PWD.”*

*– Representative of PWD CSO*

However, despite this seemingly detailed legal framework, challenges exist with its content and implementation. First, the legal framework is not comprehensive; the plethora of laws provides for different benefits to specific groups.<sup>194</sup> The Law on Disability Pensions has vague language, placing several PWD at risk of not qualifying for a disability pension. The stringent criteria also exclude several PWD from receiving support; to qualify for disability pension, for example, a person needs to be “totally and permanently disabled and incapable of any form of occupational activity.”<sup>195</sup> The deaf do not receive any state support. Many other laws do not consider sufficiently the needs of PWD, as PWD are rarely consulted in the policy-making process.

*“If you have a disability of 70 percent, then you do not receive any compensation. The qualification criteria for pensions are way too high. They exclude many people who depend on state support.”*

*– Representative of PWD CSO*

Implementing the legal framework on PWD rights and benefits involves additional challenges. A recurring theme among PWD was that most laws are impossible to implement due to their unclear provisions and lack of enforcement mechanisms. The

*“It is easier for employers to pay sanctions than to employ persons with disabilities.”*

*– Representative of PWD CSO*

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<sup>193</sup> Office for Good Governance, National Strategy on the Rights of Persons with Disabilities in the Republic of Kosovo 2013-2023, [https://childhub.org/en/system/tdf/library/attachments/national\\_strategy\\_on\\_the\\_rights\\_of\\_persons\\_with\\_disabilities\\_in\\_the\\_republic\\_of\\_kosovo\\_2013-2023\\_2.pdf?file=1&type=node&id=23564](https://childhub.org/en/system/tdf/library/attachments/national_strategy_on_the_rights_of_persons_with_disabilities_in_the_republic_of_kosovo_2013-2023_2.pdf?file=1&type=node&id=23564).

<sup>194</sup> This was a recurring theme in interviews and focus groups (2018). Diverse representatives of PWD organizations across Kosovo wanted to see a single, comprehensive law attending to all PWD (deaf, blind, physically, and mentally disabled, etc.), which would clarify their benefits related to social assistance, employment, training, health, education, and other services.

<sup>195</sup> Law on Disability Pensions, Article 1.3.

National Strategy on PWD is not being properly implemented.<sup>196</sup> The 2015 Progress Report of the Strategy illustrates underperformance.<sup>197</sup> Out of the planned 93 indicators, 49 were incomplete, under development, or had not started yet. Reporting on many other indicators was problematic, for example, using phrases like, “Some teachers have been trained” without providing concrete numbers and information.<sup>198</sup> Many factors contribute to this, including insufficient budget allocation, lack of political will, and weak enforcement mechanisms. The National Commission for Reporting and Implementing the Strategy has never been functional, posing a challenge in properly evaluating implementation of the Strategy. In addition, the National Disabilities Council has not been functional since the 2017 elections, exacerbating the problem of inadequate monitoring mechanisms.

Further, the Law on Vocational Ability, Rehabilitation and Employment of People with Disabilities requires every public and private employer to employ one PWD per every 50 employees and to provide appropriate conditions for PWD to work.<sup>199</sup> However, none of the central and local level institutions monitored during this process adhered to this mandatory quota. CSOs reported that the situation is worse in the private sector. Few USAID implementing partners were aware of this legal requirement, and thus had not required businesses or institutions supported by USAID programming to implement this law. Key contributing factors for this lack of implementation include the absence of proper enforcement mechanisms, low fines for breaking this law, and employer ignorance that the law exists.

Neither Law No. 04-/L-110 on Construction<sup>200</sup> nor Law No.04/L-174 on Spatial Planning contain any PWD accessibility requirements.<sup>201</sup> PWD also alluded to potential challenges with implementing the legal framework pertaining to inheritance of property. Some respondents voiced concern that family members may not declare that PWD exist during inheritance proceedings, thereby denying them their inheritance in the belief that PWD are not capable of managing family properties. A second key issue for PWD is that if they own property, they relinquish their right to receive the disability pension. There is no legal basis for this according to Law No 2003/23 on Disability Pensions in Kosovo. Further research is needed to discover whether this discrimination is really occurring. Respondents noted that owning property does not mean that PWD have the money to survive or eat, and that the law should be amended to enable them to own property *and* receive assistance. Further research is required on the issues surrounding inheritance and property ownership for PWD.

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<sup>196</sup> EU Commission, Commission Staff Working Document, Kosovo\*2018 Report, 2018, at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-kosovo-report.pdf>, as well as interviews with key informants (2018).

<sup>197</sup> Office for Good Governance, Action Plan for the Implementation of the National Strategy on the Rights of Persons with Disabilities in the Republic of Kosovo 2013-2015: Progress Report, 2015.

<sup>198</sup> Ibid.

<sup>199</sup> Law on Vocational Ability, Rehabilitation, and Employment of People with Disabilities, Article 12.

<sup>200</sup> Assembly of the Republic of Kosovo, Law No. 04-/L-110, 2010 on Construction, [www.mmph-rks.org/repository/docs/Law\\_on\\_Construction\(1\)\\_502293.pdf](http://www.mmph-rks.org/repository/docs/Law_on_Construction(1)_502293.pdf).

<sup>201</sup> Assembly of the Republic of Kosovo, Law No.04/L-174 on Spatial Planning, 2013, at: [www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20spatial%20planning.pdf](http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20spatial%20planning.pdf).



## 5.2 ISSUES FACED BY PWD IN KOSOVO

Women and men with disabilities in Kosovo face several challenges and barriers in all areas of public and private life. While CSOs and experts working in the field have identified the main challenges during interviews, there is an overall lack of research related to the position of PWD in Kosovo, including insufficient research on existing laws and policies and implementation of international conventions on PWDs; and an absence of reliable statistics disaggregated by gender and type of disability.

*“Our environment and lack of services give us disabilities, not our physical constraints.”*

– Representative of PWD CSO

### 5.2.1 PARTICIPATION IN POLITICS AND DECISION-MAKING

PWD in Kosovo have very minimal participation in decision-making in private and public life. Inadequate infrastructure, particularly inaccessible public spaces, institutions, and events, present significant difficulties for PWD to participate in politics and decision-making processes. For instance, through a USAID-funded action during the 2014 national election campaign, PWD monitored several facets of the electoral and campaign process. Researchers observed that 93 percent of all campaign events were inaccessible to PWD. Further, only 10 percent of all events mentioned PWD or PWD rights.<sup>202</sup>

*“Kosovo guarantees all citizens the right to vote, but not all citizens have access to this right.”*

– Representative of leading PWD CSO

The historical lack of physical access to polling stations, while improving, also has created a disincentive for PWD to vote (see sidebar). According to PWD CSOs, persons with intellectual disabilities are entirely excluded from voting and political participation; and there is frequently the risk that third parties will vote for them.<sup>203</sup> Lack of physical access to public institutions, roads, transport, and parking spaces further undermines PWD’s ability to participate in various political and decision-making processes within their municipalities. Insufficient information exists regarding potential differences among women and men with disabilities’ access to decision-making processes.

*“A couple years ago, I went to the polling station and my voting room was on the second floor. I had to be carried in my wheelchair upstairs, which made it really dangerous for my health. This year I didn’t vote at all. I didn’t want to risk my health.”*

– Woman with disabilities

A recurrent theme from PWD respondents was insufficient cooperation between policy makers and PWD organizations. The lack of direct consultations with PWD in decision-making processes may mean that their needs are not adequately considered in policy and program design.

<sup>202</sup> USAID in Kosovo, Persons with disabilities gain better access to political process in Kosovo, 2015, <https://www.usaid.gov/results-data/success-stories/improving-access-political-process-persons-disabilities-kosovo>.

<sup>203</sup> Interviews, 2018.

Ultimately, PWD seem to be facing multiple serious challenges in participating in politics and decision-making processes. There is a need for further research on the potentially differential impact that these challenges have on men and women with disabilities.

### 5.2.2 ACCESS TO EDUCATION

Individuals with disabilities continue to have limited access to educational opportunities. Kosovo currently has two special schools and five Resource Centers for children with disabilities.<sup>204</sup> In the academic year 2013-2014 a total of 635 students attended special education, while in the 2014-2015 academic year, the number was 445. In the 2013-2014 academic year, girls comprised only 40.8 percent of all students attending special education. In the 2014-2015 academic year, girls similarly comprised only 42.2 percent of students in these schools. Thus, data suggests that girls with disabilities may attend education at lower rates than boys do. Further research is necessary to explicate the discrepancies in school attendance between girls and boys. Some participants in the assessment claimed that, when faced with limited resources, families might send their sons rather than their daughters to school.<sup>205</sup> Further, the Statute of the University of Prishtina does not specifically mention equal opportunities for students with disabilities.<sup>206</sup>

The lack of personal assistants for children with disabilities remains a key challenge for PWD to access education.<sup>207</sup> In classrooms that already often are over-crowded, teachers cannot attend to the specific needs of children with disabilities, which makes the presence of personal assistants crucial. However, insufficient funding has meant that such assistants have not been hired in most schools. Parents who want to ensure education for their children must pay teaching assistants themselves. Due to widespread unemployment and poverty in Kosovo, parents frequently must interrupt their children's schooling because they cannot afford to pay the teaching assistants. Given the precarious position of such assistants, reportedly including working without contracts, they evidently change jobs frequently. This instability also has negative consequences for children and the relationships they build with teaching assistants,<sup>208</sup> leading to further isolation for children with disabilities.<sup>209</sup> There is scarce data and research on boys and girls with disabilities and the potentially differential challenges they encounter. Further research could shed more light on the challenges and lead to better recommendations.

Lack of access to educational facilities was another recurring theme. Educational facilities, including from primary school through university, do not provide appropriate physical infrastructure for students. There is also a widespread lack of learning materials for visual and hearing disabilities, such as lack of digitalized or recorded lectures in Albanian and learning materials in braille. Children with intellectual disabilities such as Down Syndrome or autism have yet to be integrated into the education system. The University of Pristina does not have an Applied Behavioral Therapy Certification Program that could certify professionals to work with children with autism and other learning disabilities. Overall, the lack of access to education

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<sup>204</sup> Morina and Farnsworth for KWN, *Budgeting for Better Education*, 2015.

<sup>205</sup> Several interviews, including with PWD in Prizren and a focus group in Gjiilan.

<sup>206</sup> Gashi, Elmaze et al, "Improving Social Inclusion for Persons with Disabilities at the University of Prishtina, 2017.

<sup>207</sup> EU Commission, Kosovo Country Report 2016.

<sup>208</sup> Interview, 2018.

<sup>209</sup> Interviews and focus Group with PwD, March 2018.

hinders children with disabilities from gaining an education that could provide knowledge and skills for securing employment later in life.

### 5.2.3 ACCESS TO EMPLOYMENT AND RESOURCES

No known employment data exist regarding the employment of PWD in Kosovo, and thus differences in employment rates for women and men with disabilities also appear unavailable. Interviews and focus groups suggest that employment remains a challenge for many PWD. Despite the aforementioned requirement that all private and public sector employers ensure that one out of every 50 employees is a PWD, this rarely seems to be respected due, as noted, to insufficient knowledge among employers about the law, meager fines for failing to implement the law, and weak enforcement mechanisms.<sup>210</sup> Moreover, respondents claimed that companies do not offer appropriate environments for PWD to work, largely because the government has not provided sufficient information about these requirements.

*“Companies do not offer appropriate environments for PWD. But how are they supposed to know what an appropriate environment entails if the state doesn’t tell them?!”*

*– Representative of PWD CSO*

While USAID-funded programs seeking to increase employment generally have sought to include PWD, they have faced challenges. In some instances, other family members hesitated to allow PWD to work. Sometimes PWD were hesitant to try short-term, donor-funded employment programs out of concern that employers would let them go after donor support ended. As applying for a disability pension can take several months, PWD respondents said they could not take the risk of living without any pension should the job opportunity not work out.<sup>211</sup> In northern Kosovo, some PWD reportedly receive pensions from the governments of both Serbia and Kosovo. Since the total resources such persons receive amounts to more money than they would earn if they would work, they have no incentive to seek work.<sup>212</sup>

Without employment, PWD lack access to their own resources and therefore become dependent on state social assistance coupled with support from their families. Such dependency can place PWD in a vulnerable position and undermine their ability to participate in decision-making at home and in public spaces.

*“Many PWD do not even know that they have the right to inherit.”*

*– Woman with Disability*

Property and inheritance rights are often violated for PWD, particularly for women with disabilities. While statistics on property owned by PWD are unavailable, a recurring theme among respondents was that families frequently exclude PWD from inheritance processes. Families also may manipulate processes at the notary. For example, deaf interpreters may not always translate the exact information being discussed. Some PWD do not even know they can

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<sup>210</sup> Interviews, 2018.

<sup>211</sup> Interviews, 2018.

<sup>212</sup> Interview, 2018.

inherit. The aforementioned notion of losing their pension if they own property also prevents some PWD from claiming their right to property. As mentioned above, there is no legal basis for this according to Law No 2003/23 on Disability Pensions in Kosovo. Further research is needed to discover whether this discrimination is really occurring.

#### 5.2.4 ACCESS TO HEALTHCARE

Social and health assistance from the state remain insufficient for meeting the needs of PWD in Kosovo.<sup>213</sup> Lack of appropriate healthcare was a recurring theme among PWD, including inappropriate services for PWD and weak capacities of medical personnel in working with PWD. Insufficient capacities, combined with the lack of specialists in several fields, leads to frequent misdiagnosis of both physical and intellectual disabilities, followed by inadequate treatment and prescriptions. Further, hospitals and other medical facilities do not offer any rehabilitation services for PWD.

##### *Example*

*A paraplegic respondent visited a public health clinic for a skin rash. The dermatologist was located on the third floor, but the clinic did not have an elevator. The respondent had the check-up in the garden of the clinic next to the street, in public, where he had to undress completely.*

Additional challenges faced by persons with mental disabilities include underutilization of mental healthcare services in Kosovo, because of widespread stigma surrounding mental health problems and a perception that mental health practitioners do not ensure confidentiality.<sup>214</sup> Mental health facilities also do not meet basic standards and are understaffed (without enough

*“PWD go sick to the hospital and leave super sick.”*

*- Representative of PWD CSO*

social workers, therapists, psychologists, psychiatrists, and technical experts to assist PWD).<sup>215</sup> Moreover, Kosovo does not have any gender sensitive guidelines for mental health institutions; and there have been allegations of, and investigations into, sexual abuse and assault against women residents.<sup>216</sup>

#### 5.2.5 ACCESS TO SOCIAL ASSISTANCE

CSOs and individual families must provide equipment such as wheelchairs and walking sticks, as the state does not. Even though this equipment could improve the quality of life for PWD, the cost makes it largely inaccessible for most PWD.

<sup>213</sup> U.S State Department, Kosovo 2016 Human Rights Report, 2016, <https://www.state.gov/documents/organization/265648.pdf> and European Commission, Commission Staff Working Document: Kosovo\* 2016 Report, 2016, [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_kosovo.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_kosovo.pdf).

<sup>214</sup> KWN, *Access to Healthcare*, 2016.

<sup>215</sup> U.S. State Department, Kosovo 2016 Human Rights Report.

<sup>216</sup> KWN, *Budgeting for Social Welfare*, 2014.

As mentioned, several PWD and PWD CSOs said that many PWD who need a disability pension do not receive it because the Law on Disability Pensions uses vague language, putting many PWD at risk of not qualifying for disability pension due to the stringent criteria.<sup>217</sup> In the North, PWD must travel to South Mitrovica to claim their pensions; this can be particularly difficult for persons with severe physical disabilities because adequate transportation services are lacking. Moreover, PWD in the North said that, due to the uncertain political situation there, many PWD must reapply to the government of Kosovo for their pension annually, even though their disabilities are permanent.

Researchers who analyzed disability and gender intersections identified further challenges faced by PWD. According to national Census data, there are approximately 93,288 PWD in Kosovo (5.2 percent of the total population). This includes persons with physical disabilities (substantial limits in basic physical activities), deafness or severe hearing impairment, blindness or severe visual impairment, learning or intellectual disabilities, psychological or emotional difficulties, and other long-standing illnesses. Exhibit 3 illustrates the number of PWD in Kosovo disaggregated by gender and type of disability. National census data suggest that there are more disabled women in need of disability pensions than men. However, data from the Ministry of Labor and Social Welfare suggest that more men benefit from the disability pension than women.<sup>218</sup> For instance, in 2015 there was a total of 19,445 disability pension recipients (52 percent of whom were men and 49 percent women).<sup>219</sup> However, census data indicates that the number of actual PWD is much higher than that (93,288). See Exhibit below for gender disaggregated data. Moreover, the data indicates that women and girls may potentially have less access to pensions than men and boys do.

**Exhibit 3: Number of Persons with Disabilities in Kosovo, Disaggregated by Gender and Type of Disability.<sup>220</sup>**

Type of Disability	Men	Women	Total
Deafness or severe hearing impairment	52.8%	47.1%	9,935
Blindness or severe visual impairment	49.2%	50.7%	9,435
Substantial limits in basic physical activities	46.2%	53.8%	31,567
Learning or intellectual disability	47.1%	52.8%	5,607
Psychological or emotional Difficulty	51.8%	48.1%	8,133
Other, including long-standing illness	42.0%	57.9%	28,611

## 5.2.6 CSO CAPACITIES AND COOPERATION

Several CSOs carry out work in support of PWD and their rights—including HandiKos, the Intermunicipal Organization of the Blind and Partly Sighted, the Organization of Persons with Muscular Dystrophy, the Association of the Blind, the Association of Women for Women with Disabilities, Little People of Kosova, Down Syndrome Kosova, and Center for Autism, as well

<sup>217</sup> Law on Disability Pensions, Article 1.3.

<sup>218</sup> KWN, *Budgeting for Social Welfare II*, 2015.

<sup>219</sup> Ibid.

<sup>220</sup> Data extracted by KWN in 2015 from the last National Census, held in 2011. For more see Morina and Farnsworth, *Budgeting for Social Welfare II*, 2015.

as several CSOs and branches of these larger organizations located at the municipal level. Historically, significant fragmentation among the diverse CSOs has hindered united advocacy efforts on PWD issues of joint concern. Some divisions among PWD CSOs have resulted from women with disabilities feeling excluded or discriminated against by men with disabilities, resulting in the creation of new organizations specifically for women with disabilities. Recently, eight of the largest PWD CSOs have come together to establish the Kosovo Disability Forum, a registered umbrella network of PWD organizations. The Forum has criteria for membership, such as requiring member organizations to be present in multiple regions of Kosovo. This excludes smaller PWD CSOs, including the few that operate only in the North; who said they felt excluded from PWD networking and advocacy, though they hoped for improved inclusion in the future.<sup>221</sup>

PWD CSOs said that they struggled to secure affordable, accessible office spaces, which makes their work particularly difficult. They rarely receive large donor funds as they are considered small, grassroots organizations. Some

organizations, like those working with children with autism, depend entirely on contributions from parents, with virtually no donor support. This means parents who

cannot afford to send their children to the centers may be excluded from these special programs, which are unavailable from the state. Insufficient resources also impact the quality of services and assistance CSOs can provide to PWDs.

*“CSOs have become the sole providers of services for PWD in general and particularly children with autism. It is difficult for us. We also need to take care of rent and paying utilities. We can barely keep our head above water.”*

*- Representative of PWD CSO*

### 5.3 INCLUSION OF PWD IN PRIOR USAID PROGRAMMING

The current CDCS highlights that USAID/Kosovo places special emphasis on supporting organizations that advocate for PWD. For example, USAID/Kosovo has worked with local PWD organizations, such as HandiKOS, on projects promoting PWD engagement in democracy and electoral participation.<sup>222</sup>

The assessment team reviewed 16 PMPs to check for their inclusion of issues pertaining to PWD. None of the PMPs contained objectives or indicators related to PWD issues/persons. Moreover, 14 lacked PWD indicators. The assessment team further reviewed assessment/monitoring and evaluation reports for nine different USAID programs to evaluate how issues pertaining to PWD were reflected. Out of the nine reports, eight did not contain objectives on PWD issues/persons, and eight did not contain indicators.

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<sup>221</sup> Interviews, 2018.

<sup>222</sup> USAID, *Persons with disabilities gain better access to political process in Kosovo*.



## 5.4 OTHER DONORS' CURRENT AND PLANNED PROGRAMS

Few donors were identified as working specifically on PWD rights, though attention to the needs of vulnerable groups in general seems to be a crosscutting theme for many donors. A table detailing applicable donor programs can be found in Annex E..

## 5.5 CONCLUSIONS

### 5.5.1 WEAKNESSES, CHALLENGES AND KEY CONSTRAINTS

The legal framework, though relatively advanced, is not comprehensive. There are several different laws providing benefits to specific groups. The Law on Disability Pensions uses vague language that, combined with stringent eligibility criteria, puts many PWD in danger of not qualifying for disability pensions. Both women and men with disabilities in Kosovo face several challenges in all areas of public and private life. Inadequate infrastructure and inaccessible public institutions and events hinder their participation in politics and decision-making. PWD remain largely excluded from education and employment. Many lack adequate access to healthcare, and some face difficulties accessing social assistance. CSOs assisting PWD lack resources and remain largely fragmented, which hinders their ability to advocate for issues of common concern.

### 5.5.2 STRENGTHS AND BEST PRACTICES IN SUPPORTING PWD

A best practice identified has been job specific training and inclusion of PWD in social enterprises, which reportedly have had some success in the North. This model, involving local ownership, perhaps could be studied and replicated. PWD organizations at the local level have made very positive changes for their communities in enhancing access and opportunities for PWD; this includes monitoring and advocating for the implementation of laws at the local level. Applied Behavioral Therapy has also proven very beneficial in work with children with autism and other learning disabilities.<sup>223</sup> Unfortunately, the universities in Kosovo do not offer certification programs for Applied Behavioral Therapy.

### 5.5.3 OPPORTUNITIES FOR USAID ASSISTANCE TO PWD IN THE NEW STRATEGY

The recent creation of the Disability Forum (an umbrella CSO) and interest among some PWD CSOs, including in the North, provides an opportunity for supporting cooperation among PWD, which hitherto has been limited. The legal framework requiring that one in 50 employees is a PWD also provides an opportunity for USAID to encourage its contractors and implementing partners, and those they support, to implement this law where applicable.

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<sup>223</sup> Interview with Director of PWD Organization, 2018.



## 5.6 RECOMMENDATIONS FOR FURTHER INCLUSION OF PWD

### 5.6.1 GENERAL RECOMMENDATIONS

- Conduct PWD analyses to inform initial program design. Then, continue to incorporate PWD considerations as an integral part of program design, implementation, evaluation, and documentation.
- Enhance ownership and use the “nothing for us without us” principle. Consult PWD and their families in planning new programs, to ensure their needs are addressed and the best approaches for involving them in programming are identified.
- Consult more with PWD and PWD CSOs in designing and implementing programs. Recognize their expertise and the time it takes for them to contribute to programming.
- Beyond quantitative indicators, in consultation with PWD develop qualitative indicators that can measure improvements in their lives.
- Support institutions to collect reliable statistics on PWD, categorized by type of disability and gender.
- Towards local ownership, consider supporting a diverse coalition of PWD CSOs in working together to hold institutions accountable. Support a coalition of PWDs in developing a strategy and working towards its implementation, thereby strengthening their capacities to monitor and hold institutions accountable. Encourage cooperation, not divisive competition, for resources. Encourage Forum members to work together, including CSOs serving women with disabilities and PWD from the North.
- As regulated by the ADS on construction, continue to require institutions to consult PWD in planning, implementing, and evaluating capital investment projects, thus ensuring accessibility from a PWD perspective. Require all implementing partners and construction funded by USAID to meet accessibility criteria. A potential overall indicator could be the percentage of buildings constructed and/or remodeled by USAID that are accessible to persons with disabilities, disaggregated by accessibility for physically challenged, blind, and deaf PWD.
- Encourage the government to functionalize the National Council for Disabilities and the Committee on Monitoring, Reporting, and Evaluating the Implementation of the National Strategy on Persons with Disabilities. This can contribute to improving coordination on implementing the strategy and coordinating PWD rights efforts.

### 5.6.2 EDUCATION

- Support professional training and certification of teaching assistants for PWD. Alternatively, bearing in mind the current hiring freeze, consider a pilot program with MEST to involve interested parents as teaching assistants, providing them with improved skills they also could use with their family members at home.

- Coordinate with other donors and private sector entities to invest in school infrastructure to ensure they are physically accessible to PWD. This could be improving accessibility to at least one school per region, including supporting establishment of speech therapy and ergo therapy (motor skills), and inclusion of psychologists. Then PWD from surrounding areas could receive services at these integrated schools offering specialized services.
- Support developing and providing students with Braille textbooks and purchasing electronic learning tools (e.g. for the deaf and blind).
- Support the University of Pristina to create an Applied Behavioral Therapy Certification Program for children with autism and other learning disabilities.

### 5.6.3 EMPLOYMENT

- Encourage public institutions to improve collection and public availability of gender-disaggregated statistics regarding PWD's labor force participation.
- As a crosscutting approach, require all partners, contractors, government counterparts, and private sector beneficiaries to implement legal obligations under Law No. 03/L-019 on Vocational Ability, Rehabilitation, and Employment of People with Disabilities; and hire more PWD, including men and women. Support appropriate physical accessibility conditions for PWD to be able to work in partner institutions and with contractors.
- Consider supporting informal education and vocational training related to labor market needs, towards enhancing the employability of PWD.
- Collaborate with businesses, PWD, and their families to identify ways to incentivize inclusion of PWD in any future employment programs, considering the aforementioned unique challenges and risks they face. Consider supporting and building on successful examples of social enterprises.
- Involve PWD more actively in any continuation of the Property Rights Program, particularly women with disabilities, who face double discrimination. Study this issue more to identify needs and tailored approaches, as relevant.
- As part of investments in developing the energy sector, consider:
  - Supporting the Energy Regulatory Office to create a sustainable energy safety net for vulnerable persons including some PWD;
  - Supporting the energy sector in developing and institutionalizing affirmative measures for hiring PWD to work in the energy sector, and for including PWD in institutional training to enable them to work in new jobs to be created within the sector;

- Support improved infrastructure at energy companies to ensure accessibility for PWD so they can work within the sector.

#### 5.6.4 HEALTH

- Invest in infrastructure improvements, towards making healthcare more accessible to PWD.
- Support improved training of medical staff to provide accurate diagnosis for PWD, including physical and intellectual disabilities.

#### 5.6.5 DEMOCRACY

- Support the Central Election Committee to institutionalize attention to PWD as part of their voter education programs, as well as to continue ensuring sustainable inclusion of PWD in elections. This includes ensuring physical accessibility of PWD to voting rooms, availability of special voting forms for visual and hearing disabilities, as well as certified assistants to support PWD in voting.
- Encourage government to improve physical accessibility to parliament and municipal assemblies, and where possible, support infrastructure improvements. Consider including physical accessibility to public buildings among criteria in the Municipal Competitiveness Index for municipalities, as an incentive.
- Include questions in USAID-supported surveys pertaining to the view of PWD as leaders, to gain information on public perceptions regarding the ability of PWD to lead.
- As part of ongoing support to institutions at municipal and national levels, encourage and support them to review capital investments projects from a PWD perspective in terms of accessibility.
- Support smaller, grassroots, local PWD organizations in developing their capabilities to monitor and advocate to municipal institutions, holding them accountable for meeting the needs of PWD.

#### 5.6.6 RULE OF LAW

- Support assessment of access to justice for PWD, to gain information regarding any cases undertaken and challenges faced, towards identifying needs for improved access to justice for PWD.
- Support institutions in drafting an inclusive, comprehensive, and clear law on persons with disabilities, including close collaboration with PWD. This should clarify the meaning of different forms of disability.
- Support institutions in implementing legal obligations under Law No. 03/L-019 on Vocational Ability, Rehabilitation, and Employment of People with Disabilities.