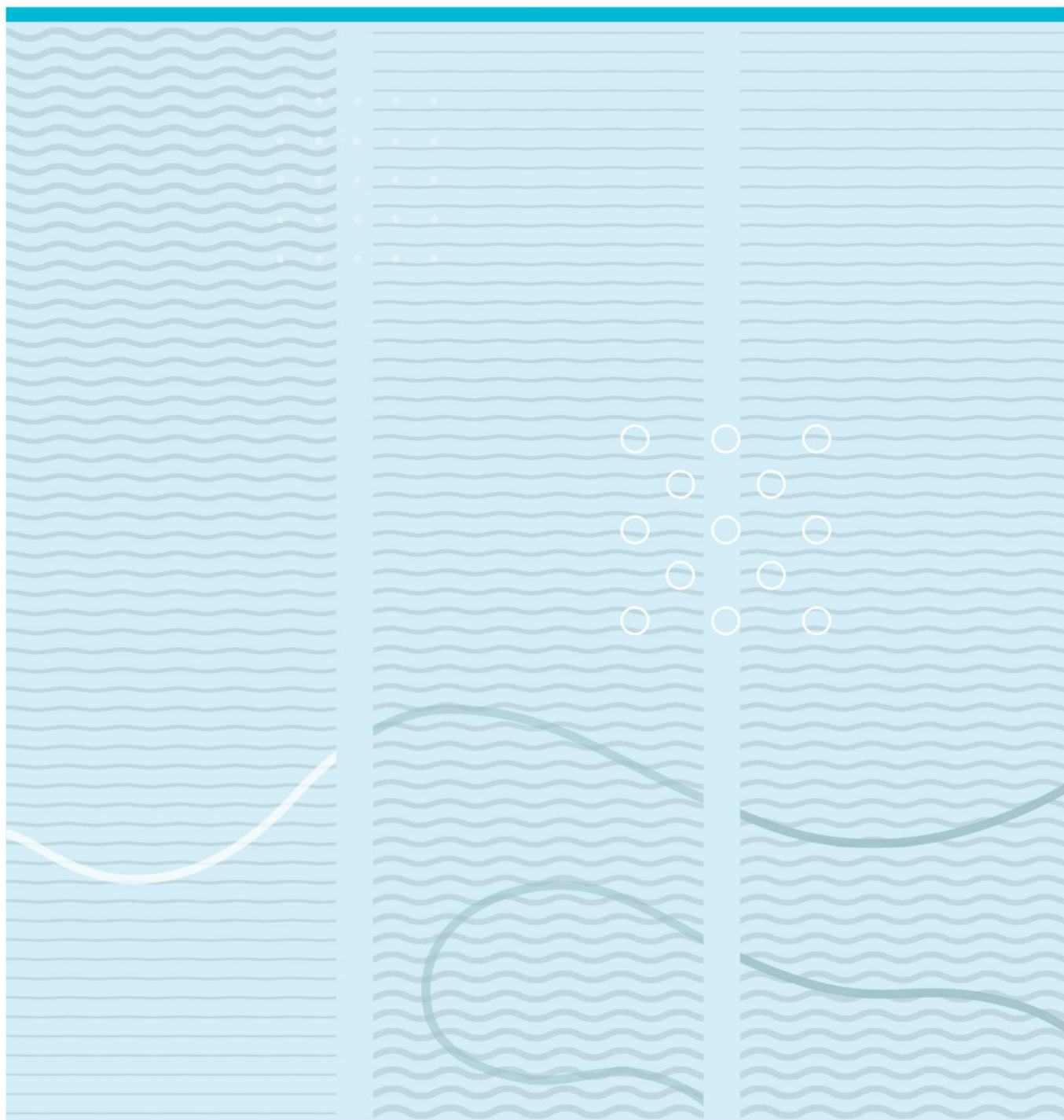


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WOMEN'S RIGHTS – BETWEEN COMPETING LAWS IN KOSOVO

A STUDY ABOUT GENDER BASED VIOLENCE IN RURAL AREAS



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This thesis is worth 45 study points

"The *Kanun* is in our mindset. The social norms have deep roots and they are hard to destroy"

(In Albanian: Kanuni është në trurin tonë. Na kanë mjell kodet dhe është zor mi hjek)

- Anonymous from fieldwork, 2017

STUDENT'S DECLARATION

I, Flutra Rexhaj, declare that this master thesis is a result of my own research investigations and findings. All the material in this thesis, other than my own work have been acknowledged and a reference list has been attached. This work has not been previously submitted to any other university for award of any type of academic degree.

Signature: Flutra Rexhaj

Date: 02.05.2018

ABSTRACT

Women's rights in Kosovo has undergone drastic changes during the last decade. After the civil war in 1999, the international community settled down to rebuild Kosovo, based on the universal human rights. The national law was made in 2008, and reflects the international model of modern ideas of democracy. However, the problem arises when Kosovo's cultural background is not compatible to the universal human rights which are included in the Constitution. It rather relates to the *Kanun of Lekë Dukagjini*, an ancient law grounded on patriarchal norms. This law is based on the traditions, custom and the behaviors of Albanian people. Especially, Albanians in rural areas, consider this law as their cultural heritage which has become part of their identity.

From this view, Albanian women seem to live their lives caught in between the demands of two relevant laws. On one side the traditional honor and shame values codified in the *Kanun*, and on the other side the universal human rights values embedded in the national law. For women and GBV victims this causes conflict between self-preservation and fulfilling their identities as wives, mothers and members of their families and communities.

The aim of this research is to examine the role of the *Kanun* in rural areas, and how this affect GBV and the possibilities for gender equality. In order to reach the aim, a qualitative research method is used. I have interviewed both Elders, preserving the *Kanun* and women who have experienced GBV, representing the sphere 'caught in-between'. The findings are further analyzed with relevant theories I present on *Previous Research* and *Relevant Theoretical Framework*.

In my research I found out that the *Kanun*, which contains traditions and social norms, is an example on how culture is preserved and internalized in the life experiences of my selected informants. However, my main focus is on how women who have experienced GBV can free themselves from the struggle and violent sphere they consider cultural lifestyles.

Keywords: Albanian; culture; cultural identity; Elders; human rights; international community; gender based violence; the *Kanun*; Kosovo; multiculturalism; women's rights

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First and foremost, I would like to dedicate this thesis to my mom and my sister, the ladies who have guided me towards becoming an independent woman. Words cannot express how grateful I am for your unconditional love and support.

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Next, I would like to thank my family and friends from Kosovo and Norway, and my colleagues at UN Kosovo team. Without our constant discussions and intense debates about my topic, this research would not have been as engaging and fruitful as it has been. Their personal networks also got me in touch with my interview informants. A big thank you goes to my interview informants: Avdyl Hoxha, Bajram, Hysen, Lule, Fatime and Kadire, who gave me their valuable time and showed me to see the world through their eyes.

Lastly, I would like to mention and acknowledge all the people who are working in promoting gender equality in Kosovo. Their work is a very important and a necessary attribution for the future of Kosovo.

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LIST OF ABBREVIATIONS

CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
ECHR	European Court of Human Rights
ECMI	European Center for Minority Issues in Kosovo
ESI	European Stability Initiative
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
GBV	Gender Based Violence
KAS	Kosovo Agency for Statistics
KWN	Kosovo Women's Network
LGBT	Lesbian, Gay, Bisexual and Transgender
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organization
NSD	Norwegian Centre for Research Data
OHCHR	Office of the High Commissioner for Human Rights
UNICEF	United Nations International Children's Emergency Fund
UNKT	United Nations Kosovo Team
UNMIK	United Nations Mission In Kosovo
USAID	United States Agency for International Development

1. INTRODUCTION

The humanitarian intervention in 1999 created a new reality for women in Kosovo. The UN Security Council authorized an international community¹ to be present in Kosovo, aimed to promote security, stability and respect for human rights. From this, women's rights came on the agenda in Kosovo.

In Albanian culture, women are considered the most honorable members in an Albanian family. The honor of a family is measured by the honor of the women inside the house (Hoxha & Maksutaj, 2017, p. 93). Women in honor/shame cultures are considered vulnerable, as they are dependent from their husbands and do not have their own liberty. They carry honor of their families. When vulnerable women in rural areas seek human rights, they usually become victims of gender based violence (GBV) in attempt of control from their father, brother or husbands, which is an outcome of the cultural custom. This include traditional honor and shame values, which are codified in the *Kanun of Lekë Dukagjini* (hereafter 'the *Kanun*'). In this value system violence against women is a normal cultural custom. It is something which is visible and internalized in Albanians lives in rural areas.

On the other side the Constitution of Kosovo represents ideals of gender equality and human rights. The Constitution does not acknowledge the *Kanun* and does not tolerate any form of GBV. The presence of two legal systems, one based in the traditional honor/shame culture and the other one based in liberal democratic ideals, places women particularly in difficult positions. While the Constitution and its implementation in national and local regulations should serve to protect women, the traditional values prevail. This becomes evident when a woman who have experienced GBV chooses to report her case to the police. In most cases she would probably get excluded from the local community, as she will be stamped and considered shameless. This become extreme difficult for women and GBV victims, as it causes conflict between self-preservation and fulfilling their identities as wives, mothers and members of their families and communities.

Coming from Kosovo, I realize that the new law which created Kosovo's independence does not relate with peoples' life. This is where my interest for this theme began. I have observed

¹ International community is a term used for international missions in Kosovo which has influential authority in the state development. The term in this thesis is addressed to UNMIK and EULEX.

that the unwritten law, the *Kanun*, which is grounded on patriarchal norms still regulate many of the Albanians daily life matters.

The *Kanun*'s content include the traditions, customs and the behaviors which are typical for Albanian people. It plays an important role because Albanians have always been exposed for external occupations. In order to hold on to their own identity, Albanians have kept the *Kanun*'s unwritten social norms close to their hearts and considered them to be part of their identity. They have preserved this identity through many drastic external historical changes (ibid, p. 12-13).

The *Kanun* is considered a cultural phenomenon (ibid, p. 21). According to the cultural philosopher Bhikhu Parekh, human beings are cultural creatures. Their culture shapes them in countless ways, forms them into certain kind of persons and cultivate certain attachments, affections, morals and psychological dispositions, taboos and modes of reasoning. Culture also provides a source of identification and belonging, and reinforces intergenerational bonds (Parekh, 2006, p. 101, 110),

There are countless of cultures in the world, representing different content and values. For many feminists, traditional cultures allow suppression of its members in different ways. The members are as usually assigned rights and duties in regard to their gender. GBV is therefore embedded in unequal power between genders and the collective male power of honor-based societies. From feminist view, patriarchal traditions represent social constructions of gender, that assign different roles and values to females and males. In traditional cultures these roles are considered natural and ideal. Societies formed by honor/shame ideals control and suppress both women and men. Females within the family, and males through blood feuds (Standish, 2014, p. 112, 121). In traditional societies actors usually safeguard their status, position and honor by using a 'façade' or 'mask'. Iron-bound rules of honor are still in force in a local level, stimulating conflict with states legal system. When the population involved does not acknowledge the juridical power, the code of honor will almost inevitably maintain its meaningfulness (Giordano, 2016, p.422, 424). This is reflected in the case of Kosovo.

I find the literature of professor Genc Trnavci and the present Head of Elders in Kosovo, Avdyl Hoxha, interesting as they discuss the tensions between modern ideas and cultural customs. They try to find a realistic balance by arguing that the desirable transition from custom law to

modern universal human rights law will not be successful without a recognition of the valuable traditional values embedded in the *Kanun* (Hoxha & Maksutaj, p. 13-15). Trnavci says that if the new state law is to succeed, it must find itself on the concept of community, good faith, hospitality and reciprocity that are in the heart of the Albanian customary law (2010, p. 215). This seems to be a good example on preservation of cultural heritage and responds on why the implemented mechanism from the modern world do not function in Kosovo. According to feminist theorists the rights to respect cultures, followed by the right to privacy and family life allows violence in the private sphere (Rao,1993, p. 516-519). In many cases this would trap, especially women in situations of dependency and make it difficult for victims of GBV to break out, in the name of the traditions and acceptable behavior. Feminist theory has a clear statement about gender referring to the social roles assigned to women and men in a given place and time. These are not biological, but socially constructed (Herr, 2004, p. 82-86).

1.2 The purpose of research

The theme of this master thesis is about gender based violence (GBV) in the Albanian cultural context in Kosovo, with a special focus on rural areas. Because of my Albanian background, I know what is considered as a standard cultural practice, which conflicts with the modern universal human rights ideas implemented. Combining my interest for Albanian culture and my concern on gender equality in Kosovo, this research will highlight the importance of understanding how cultural practice can make it difficult for the people of Kosovo, having in mind their long history of patriarchy, to access the rights implemented because it does not relate to their cultural identity.

The purpose of this research is to examine the role of the *Kanun* in rural areas, and how this affects GBV and the possibility for gender equality. Through this I would reach my aim to gain a better understanding of the situation women are caught in between, and why things do not get better for them in Kosovo. The knowledge of understanding local traditions and social values would be helpful to the human rights field. This is because culture is a type of identity, which can be hard for someone to let go, even though if their rights are being violated. And change to that particular culture may be seen as hostile and eliminative on their identity and meaning of life.

1.3 Research questions

My thesis will be focused in two main questions:

1. How do women relate to the two different laws (the legitimate state law and the custom law) in Kosovo?
2. What are the factors affecting governmental GBV mechanisms to work successfully?

Through this study I will try to answer these questions. The first question is about gaining a deeper understating of the complex situation women are trapped in, between cultural customs and universal human rights. To do so, I firstly need to identify if the *Kanun* is still practiced and how it works. I need to give attention to the Elders² who keep this law alive and absorb their points of view on the contradiction they see in the relation to the state. Secondly, I will give attention to victims of GBV to understand the situation from their point of view. Do they consider their attitudes (what they think, how they feel and their behavioral tendencies) as something which are fostered and maintained by the *Kanun*? And further to recognize if the *Kanun* actually reflect on their behavior manners.

By analyzing previous research done in the field, using relevant theoretical perspectives and at the same time doing interviews, I will gain a broader perspective on this issue. I will also include feminist theories which will portray the dependency situation when women get trapped in and how it makes the situation difficult for the victims of GBV to break out of these rooted systems.

1.4 Motivation of this study

My desire to learn more about human rights and peace issues started from my childhood where I unfortunately experienced the civil war in Kosovo. Later, growing up in Norway made me gain a multicultural understanding, that gave me the opportunity to see and understand the world in different ways.

Living in-between two cultures, I can notice especially how women are treated differently based on their surroundings. I find this interesting, and sad in many cases. I have therefore decided to

² An Elder is an authority position in the Albanian community. One is generally summered by showing the ability to be wise and advisory.

give my fully effort to this field when writing my master thesis. Kosovo is considered a new state after its independence in 2008, and is working towards reaching the European standards on universal human rights. It has to develop these universal standards to have the opportunity to join the European Union. However, its people from rural areas are still influenced by an old cultural practice. I see this problematic because it limits women's rights in these places. Nevertheless, I believe that change of mentality takes time. It's important that we continue, and strengthen attitudes to end GBV. But that cannot happen without understanding the cultural context of the genders, and to learn how to preserve cultural heritage in a positive way for the whole population.

1.5 Delimitations

To understand the Albanian customary law, one must know about the whole history of the region. This is a very broad theme, and because of the thesis limitation, I cannot mention everything. However, in this section I'll mention the important five aspects I cannot include in this thesis.

Firstly, I will not emphasis the country of Albania. The Albanian people, covers both the countries Albania and Kosovo. The Albanians in Kosovo are known to only use the custom *Kanun of Lekë Dukagjini*, in preserving their cultural identity from external occupations. Albania in the other hand, have been an independent state since year 1912, and is known to practice several different *Kanun's*, depending on the geographic place they inhabit.

Secondly, I will not include the urban areas of Kosovo. GBV is a worldwide issue, and covers both rural and urban places (Standish, 2012, p.111). I chose to limit the research to rural areas because, as I have experienced and as reports indicate, people in local communities in Kosovo are more isolated and controlled and tend to be more like to suffer GBV (Farnsworth & Co, 2014, p. 45).

Thirdly, I will not address males or LGBT issues to GBV. GBV targets all persons, regardless of their gender identity (ibid, p. 49), but since I focus on traditional culture I choose only to include women issues, as they are the ones with uneven rights in rural areas.

Fourthly, I will not emphasis religion. Kosovo is a secular state, with the majority of the population being of a Muslim heritage. Only 4% of the total population consider themselves

Catholics (Kosovoinfo, 20.03.2018). In Albanian culture, however, ethnic identity seems traditionally to have priority over and influence religious values. As Hoxha and Mksutaj (2017) explain, religion is changeable but ethnicity is not (p. 43). The *Kanun*'s first chapter is about how to respect and behave in the church, because the religion Islam had not yet invaded Albanian lands. Anyhow, the Albanians believe that belief and the *Kanun* are separated and have two different roles to perform in one's life (ibid, p. 53).

Finally, this thesis does not focus on the minorities of Kosovo, and their experiences regarding this theme. Albanians are the majority in Kosovo with 87% (ECMI, 20.05.2017). All people of Balkan, including the minorities of Kosovo have their own kind of customary law with some differences. But for me to focus on all the cultures and histories would have been too broad of a topic for this thesis.

1.6 Thesis layout

In Chapter 1, *Introduction*, I have described why I chose to write about women's rights between competing laws in Kosovo. I have introduced the general issue regarding women in Kosovo, the purpose of my research and the research questions my study is working towards. I also included my motivation, the delimitations of the research and this thesis layout where I'm explain the content of this paper.

In Chapter 2, *Methodology*, I will present the methods I have selected to conduct this thesis. This include my positionality, the selections of the informants, the documents and an analysis part of the qualitative data and the interviews. Additionally, I discuss challenges this research may encounter and the ethical considerations.

In Chapter 3, *Women's Current Situation* I describe the geopolitical and economical profile of women's situation in Kosovo and a brief historical overview. To get a better understanding of the situation in Kosovo I will also present the traditions of Albanians and explain how the process of cases of the Elders work in practical life. Lastly I will present the legal existing frameworks on women's rights.

In Chapter 4, *Previous Research*, I review field-studies and interdisciplinary literature conducted by Avdyl Hoxha & Rexhep Maksutaj, Genc Trnavci, and Elanor Pritchard. Their work describes the *Kanun* and its influence in today's society of Kosovo. Additionally, I

provide a working definition of the GBV concept and the women's practical experience with the law. Next, I will include honor and shame as a phenomenon in general, as honor has main importance in the *Kanun*.

In Chapter 5, *Relevant Theoretical Perspectives*, I introduce a number of relevant theories for my topic, which will give a better understanding of the research phenomenon. This chapter will start by presenting Parekh's perspective on cultural identity, and will be followed by Okin and McKerl feminist views on multiculturalism. Next on, I will use work from such as Herr, Moya, Pogge, McKinnon, Rao and Hossein to discuss how the issue of GBV has deep roots to the practice of cultural customs. In the last part I will include Standish, Merry, Pospisil, Moore, Diamond, Douzinas and Ignatieff in explaining cultural violence and legal pluralism.

In Chapter 6, *Between Tradition and External Influence* is my findings and analysis part of the thesis. This chapter will capture a sphere between traditions and external influence. I start by giving a summary of the discussions with direct quotations from the interviews. Furthermore, I'll analyze the findings in connection to the previous research and the relevant theoretical perspectives of my thesis.

In Chapter 7, *Conclusion*, I will recap the essentials in this research and give my conclusions on the research questions.

2. METHODOLOGY

This methodology chapter will describe the choices I have made in conducting this case study. As my aim is to examine the role of the *Kanun* in rural areas and how this affects GBV and the possibility for gender quality, I will gain a deeper understanding of these phenomena through using qualitative research method.

2.1 Choice of method

People and their social world matter in social science. Bryman (2012) further explain that this means that the social world must be interpreted from the perspective of the people being studied, rather than seeing them as incapable of their own reflection on the social world (p. 399). In addition to the primary interviews, this thesis will also include secondary sources, as well as primary observation to analyze the situation of women in Kosovo. In this way I will be able to understand the generation of theories (secondary sources) in the way individuals interpret their own social world (primary interviews) (ibid, p. 380, 388).

In order to engage empirically my research objective and understand its context I decided to complete a part-time research internship at UN Kosovo Team (UNKT) for a period of six months. UNKT have been in Kosovo since the civil war ended and have done a lot of work in the developing process in Kosovo. The internship gave me the opportunity to become familiar with the work of the UN in promoting women's empowerment in the region, participating directly in ongoing projects affecting women's issues and giving me access to relevant UNKT findings and reports. Simultaneously, I was conducting my own interviews for the thesis, including finding materials for the literature review and theoretical framework. I decided to separate my interviews in two groups, one with the Elders preserving the custom tradition of the *Kanun*, and one with the survivors of GBV fighting for their existence. The groups highlight the contrasting perspectives and represent an important factor in current gender matters. In overall, both internship, my personal background and my own research gives me an observation on my research objective from several points of view.

2.2 Positionality

My interests for gender equality, as I presented in the introduction chapter, goes back to my upbringing. I have experienced vast inequalities between genders during the time I grew up, and even though I have fled from these problems on a personal level in Norway, I see it and

still experience gender discrimination in Kosovo. They reflect the *Kanun*'s content in many levels. This is where my Albanian origin makes this thesis attractive. I consider myself as an 'insider', knowing the reality in Kosovo, but being an ethnic Albanian from diaspora³ can make me an 'outsider' from the inhabitant point of view. They may think that I don't understand their way of life since I'm raised abroad. One of the visible reasons can be that my accent sounds a little bit heavily, even though I speak Albanian fluently.

Acknowledging this important aspect of duality may influence my task as a researcher. Merriam & Johnson-Bailey (as cited in Holmes, 2014) understand that the insider's strength can become the outsider weaknesses and vice-versa. They also understand that researcher's positionality can change over time, due to their cultural, political and social context (Bryman, 2012, p. 393). Advantages of an insider position include; easier access to the culture being studied, ability to ask more meaningful or insightful questions, ability to understand the language and non-verbal cues, ability to give a more truthful 'authentic' thick description of the culture, secure more honest answers and disorientation due to 'cultural shock' is removed (Holmes, 2014, p. 18-20). The disadvantages of an insider position then include; inherently or overly sympathetic to the culture, may be too close or bound by custom codes, so the researcher is unable to raise provocative or taboo questions, may be unable to bring an external perspective to the process, and the respondents may be less willing to reveal sensitive information than they would be to an outsider who will have no future contact with (ibid). I want to highlight that I consider myself to inherit both the 'insider' and the 'outsider' perspective. I become the 'insider' while collecting information and transform to an 'outsider' when I review my findings and do the analyzing of this thesis. The 'outsider' perspective in the same time will have a feminism influence on the overall research, since I want to eliminate the power imbalances, as there are a number of power issues in the Kosovar context. In this way, I also present my personal value commitments, where a qualitative method is favored by feminist theorist since it allows women's voices to be heard and does not treat women's as objects controlled by researcher's technical procedures by letting the emancipatory goals of feminism to be realized (Bryman, 2012, p. 40, 411).

Based on this narrative, I cannot be objective in my research. I see a system of patriarchal values founded on the ancient custom traditions, which I want to describe.

³ Diaspora – Albanians living outside their original homeland.

2.3 Interviews

To gain a better understanding of the individual experience of my chosen topic, I wanted to listen to the voices of the Elders preserving the *Kanun* and the personal stories of the GBV survivors. It is important to get the perspectives of both the Elders and the GBV survivors because they represent the conflicting value systems, between the traditional customs and the western ideas of self-preservation.

My sampling of informants are a combination of opportunistic sampling and snowball sampling. According to Bryman, opportunistic sampling means collecting data from certain individuals, interaction with whom is largely unforeseen but who can provide data relevant to my theme. Snowball sampling, is another technique. It involves gathering a small group of people relevant to the theme, and these would propose other participants who have had the experience or characteristics relevant to my theme. These participants will then suggest other and so on (ibid, p. 419, 424-425). Because of my limited time and resources, I could not truly select a random sample. Also, because of my spent time in Kosovo, I got to know new people, who introduced me to others, and made me aware of further areas of the region I could benefit from. The GBV informants were chosen based on the recommendations from the UNKT staff. I wanted to interview GBV victims who lived in safety shelters. These victims shows where the limit of violence goes, since they decided to report a GBV case to the police. At the time, when I conducted the interviews, all the safety shelters were closed down because of a financial lack from the government. It would not have been possible for me to carry out these interviews, if I was not part of the UNKT, bearing in mind the respectable cooperation the shelters and UNKT have built up over the years. When it comes to the Elders, I found them through contacts my relatives provided me. Even though they did not know anyone specific, they knew people who could have some connections to them. This reflects the society in Kosovo, where everybody knows each other, or are connected in one way or another. This again, raises question regarding the anonymity of my informants, which I will outline detailed in the ethical consideration part.

Berg (2009) defines interviews as face-to-face interactionary performance, which is a conversation with a purpose to gather information on a specific topic (p. 201, 203). Given the sensitivity to the research topic I wanted to focus on a few, but in more extensive conversations. I have chosen to conduct six in-depth semi-structured interviews which were the most appropriate. According to Onwuegbuzie and Collins in Bryman (2012) a general sample size in qualitative research should be so small as to make it difficult to achieve data saturation,

theoretical saturation or informational redundancy. This would then make it possible to take deep case oriented analysis (p. 425-426). I also did not have time resources for more than six interviews bearing in mind the thesis length. Furthermore, these types of interviews involve a schedule of predetermined questions and special topics related to my research questions. These questions are asked of each informant in a systematic order, and the informants are expected to probe far beyond the answer to the standardized questions. The flexibility of this kind of interview can also pursue areas spontaneously initiated by the informants (Berg, 2009, p.107, 109). I provided two separate interview schedules which are applicable for both the Elders and the GBV survivors. The informants provided me with detailed answers about the topic on their terms and in their own time. Further on, the research design gave me the opportunity to observe their emotional responses and gave me the chance to minimize any distress or other negative feelings that might result from participating in the research (Bryman, 2012, p. 27, 41).

Below, I will give a short presentation of the informants. In order to obtain the informants confidentiality, I have used fictional names instead of their real names in the thesis. Only the Head of Elders, with his consent, will not remain anonymous, because he is a public figure and I'm using his newly published book as my main reference in the *Previous Research*.

Avdyl Hoxha is the Head of Elders of Junik in Kosovo. He is 70 years old. He got married through traditional arranged marriage (in Albanian: *martese me msit*) and he has children. He has an PHD degree in social science. He became the Head of Elders after his father's death (family heritage, as Lekë Dukagjini back in ancient times gave authority to their family to practice this position). He is active in settling disputes both based on the *Kanun* and through legal state mediation forms.

Bajram is 75 years old. He got married through traditional arranged marriage too and has five children. He has completed four years of elementary school. He lives in a village with his entire extended family. He is an active Elder, and settles disputes only based on the *Kanun*.

Hysen is 50 years old. He has an informal marriage (common law marriage) through arranged marriage and have four children. He has completed high school. He lives in a town, with his core family. He is an active Elder, and settles disputes only based on the *Kanun*.

Lule is 35 years old. She has an informal marriage and does not have any children. She has four years of elementary school. She got married when she was 20 years old, with a man her family did not approve. Lule is a housewife and lives with her husband's extended family.

Fatime is 50 years old, married and has six children. She has never attended elementary school. She got married through arranged marriage when she was 17 years old. She is a housewife and lives with her core family.

Kadire is 43 years old. She has an informal marriage and has three children. She has completed elementary school until the eighth grade. She got married through arranged marriage when she was 19 years. She is a housewife and lives with her core family and her husband's parents.

The interviews were conducted in Albanian, giving the respondents the option to freely express themselves, without no language barriers. I used a voice recorder on four of the interviews, while two of my informants did not approve of me recording the conversations. Using the voice recorder made the conversation more natural, where I only took notes of the body languages, feelings and expressions. The setting of the interviews had privacy, and where conducted in the time and places where the informants felt conformable. This is needed for the participants to feel safe and free from interruptions as Holloway & Wheeler explain (in Doody & Noonan, 2013, p. 3-5). All the Elders choose to meet in restaurants. These were quiet restaurants, and the interviews process included two external observing persons as they got me in touch with the specific Elder. All the Elders seem to be happy to share their knowledge. The Elders have an authority where their words are respected by everyone in society. So I do not think it was important if there were others sitting with us. Furthermore, I visited my other informants, the survivors of GBV in the security shelters they lived in. I was allowed by the staff to conduct the interviews alone with the GBV survivors. As these informants were more sensitive, I used more time to get to know with them, before starting the interview. This was necessary to foster the comfort zone which would nurture honest responds on my questions. Put together, none of my chosen informants were in their own home. However, they were surrounded by familiar people and surroundings, where I as a researcher was the only one from abroad. A physical comfort and psychological comfort are essential in interviews (ibid).

2.4 Documents as a source

The term ‘documents’ contain a variety of different kind of sources. According to Bryman (2012), official documents deriving from private actors fits my research objective. Official documents include annual reports, mission statements, press release, advertisements and public relations material. Companies or organizations who produce these documents are likely to have a particular point of view that they want to get across. Therefore, this kind of documents cannot be regarded as providing objective account of a state of affairs. They have to be interrogated and examined in the context of other sources of data (p. 550-551).

There are many NGOs working on human rights issues in Kosovo, with special focus on women’s rights. They are all financed by foreign governments and shows us key achievements and challenges the state have in empowering women and girls. For me it has been important to choose reports/publications which include the GBV term and the traditional custom law term. In this way I can clarify the current linkage between the *Kanun* and GBV. At the same time, these documents will provide me with critical view on the governmental implementation and gave me relevant information that helped me give meaningful reflection on the interviews conducted.

Bryman explain qualitative content analysis to be the most prevalent approach to interpret official documents. It comprises a searching-out of underlying themes in the materials being analyzed and can be discern in several of the studies referred to earlier. For example, identifying and retrieved sections of text concerning themes of interest (ibid, p. 557).

2.5 Qualitative data analysis

Qualitative research method gathers rich information and takes form in many different kinds of sources. The main problem to this method, is that it is easily to generate a large, cumbersome database because of its reliance on prose in the form of such media as field notes, interview transcripts, or documents (ibid, 565). The most widely used framework for analytic qualitative data is the grounded theory, which I also will use to get a guideline of the analytic process of my research.

My gathered literature, documents/ publications and the conductions of interviews had a large amount of unstructured textual material. The material was not easy to analyze and structure.

Grounded theory is defined as a theory type which was derived from systematically gathered data, and further analyzed through the research process. This means that data collection, analysis and eventual theory stand in close relationship to each other (ibid, p. 387). This approach helped me analyze the content by using the heart concept of ground theory: coding, theoretical saturation and constant comparison. Coding refers to braking down the data gathered into component parts, which are given names. In this way I can emphasize the significant content of the data. Theoretical saturation is a process of coding of data and the collection of data while constant comparison refers to a process of maintaining close connection between data and conceptualization, so that the correspondence between concepts and categories with their indicator is not lost (ibid, p. 568-573). In this way I coded the data, searched for commonalities, themes, subcategories and relationships with my research questions. The codes I found was: cultural identity, traditional customs, family, private sphere, public sphere, honor and shame, collective rights and external influence. These are all interconnected and are linked with my research questions.

2.6 Interview data analysis

In the overall process, all the meetings with the six semi-interviews lasted for almost 13 hours. The Albanian recording and field noting were further transcribed in text. As explained by Horrocks (2010) the analyzing process of analyzing has three steps. One is to identify the parts of the transcripts that are helpful in addressing my research questions. Step two include grouping together descriptive codes which share common meaning, and create an interpretive code that captures it. Step three defines the overreaching themes that characterize key concept of the analyze. After I did this, I drew directly on any literature and theoretical ideas that supported my study as long as they were supported by the analysis (p. 152-157).

On the basis of this, the analysis will provide a descriptive summary of the content of my research and build a narrative that tells the reader how my findings are connected with *Kanun* 's influence on gender roles in Kosovo. Furthermore, it is explained that rich descriptions are those which use quotes of participants because they are considered to contribute a trustworthiness in the research. However, because my interviews where in Albanian, the translation of quotes and concept to English had its challenges. The translation loses its original source of owner, and the meaning of words which are culturally bound, because it's difficult to find suitable description in English. To avoid potential limitations in the analysis, its recommended staying in the original language as long as possible, and work closely with expert interpreters (Nes & Co, p.

314-315). Since I live in-between two cultures I am able to sort out this problem, because I understand the intended meaning of the words and their context in the Albanian language. Whenever I had difficulties, I also worked closely with my friends and colleagues to find the correct translation by discussing possible wordings in English. To make sure the voices of the informants are their own, I have used footnotes with the Albanian quotations in the English translation I have tried to provide with the verbal expression of my participants. It must also be noted that the Albanian phrases are not written grammatically correct, as these are well-known verbal expressions.

2.7 Research challenges

In the overall experience, I enjoyed the fieldwork, as my chosen theme is something that really interests me. Everything from traveling to the various rural places in Kosovo, to meeting the participants were informative and enjoyable. However, I faced on some challenges thought-out the period. Firstly, I had troubles finding the GBV survivors. This was because of safety routines the shelters had, but with help from the UNKT staff they made it possible. Further, I did not realize that the Elders could have health problems. One of my informants had diabetes and we had to stop the interview so he could take his medicine. Although the interview restarted, I was still worried and it took some time before we continued on the right track.

Moreover, I had troubles finding and choosing the right literature and theories for my theme. I was fortunate as I worked closely with my supervisor, and she helped me to narrow down and focus on specific texts. In periods, I also had lost my motivation to write as I enjoyed the internship tasks and the social life in Kosovo, leading to letting my thesis slide to the side. Again, with the advice and support from my supervisor I got my concentration back on track.

Finally, being originally from Kosovo may have affected my mindset. Knowing Kosovo's cultural history and talking with relatives, friends and colleagues gave me different imprints on how and why things are as they are. The cultural surrounding in Kosovo over a longer period may have given me prejudices. To avoid this, I tried to be as reflective as possible and focus on how my positionality as multicultural and feminist could benefit this thesis.

2.8 Ethical consideration

According to Diener and Crandall in Bryman (2012) we have four ethical principles in social research that should be a guidance for all researchers. The principles are; research that is harmful to participants, research that lack informed consent, research that is an invasion of privacy and research where deceit is involved (p. 135). Furthermore, Resnic (2015) argues that ethical norms tend to be broader and more informal than legal laws. The norms promote the aims of research, different inter-disciplines since its involve different people, ensures that researcher can be held accountable to public, help to build public support as people are more likely to find if there is integrity in research, and finally includes other moral and social values such as responsibility, human rights and safety (p. 2).

To avoid any ethical missteps, it is required from my University that we send an application to Norwegian Center for Research Data (NSD) of our thesis dissertation. They will further evaluate our dissertation for any ethical scrutiny. After my approval from NSD, I conducted my fieldwork and ensured the ethical practice since my informants shared sensitive information about their personal life's. All my informants as mentioned above, are anonymous, except of one. Because I found my informants through social network, they can be identified by their names and the places they live in. Therefore, to ensure confidentiality and anonymity I have given them fictional names and will not mention the geographical places where they live, as they represent different regions of Kosovo.

Before I conducted the interviews, I made sure that the informants were informed about the purpose of the research, why I wanted to interview them and how the process of confidentiality were going to be assured. After the interviews, I had bought gifts (confectionary chocolate & sweet juice) to each of the participants, as in Kosovo this is a symbol of respect and to say thank you for their time and information.

3. WOMEN'S CURRENT SITUATION IN KOSOVO

To understand women's current situation in Kosovo, it's very important to look back to what have contributed to today's situation. How a society works and how it was shaped tells us a lot about how a country evolves. I will start the chapter with a short geopolitical and economical profile, which will give a sense of Kosovo's appearance. A brief history overview and the tradition of the Albanians will then follow. This would give an understanding of each aspect of the history and the cultural background. Further on, I will present the legal changes happening in favor for women's rights in Kosovo's laws, including the relevant GBV mechanisms available. From these descriptions it would be possible to see the obstacles women in Kosovo have, from enjoying their rights fully.

These are important aspects on how Kosovo has evolved and will give the reader a better understanding of the findings and analysis I will present in the upcoming chapters.

3.1 Geopolitical and economical profile

Kosovo is a new and small country in south-eastern Europe. Kosovo borders with Montenegro, Serbia, Macedonia and Albania. Kosovo is multiethnic with 1,8 million inhabitants, where the majority are Albanians (87 %). The minorities are Serbs (8 %) and others (5 %), including Turkish, Bosnian, Goran, Roma, Ashkali, Egyptian, Croat and Montenegrin communities. The official languages in Kosovo are Albanian and Serbian (ECMI, 20.05.2017).

Kosovo is considered as one of the poorest countries in Europe, with 17,6% of population below the absolute poverty line. The unemployment rate is 30,6% and is especially high among youth in the age from 15 to 24. The inactivity rate is 62,2%, whereas 81,9 % represent the women.

Inactive by reason and sex by variables, year, period, ('000) or % and sex

	2016		
	Q2		
	Inactive population as share of the working-age population (%)		
	Male	Female	Total
Looking after children or incapacitated adults	0.0	0.5	0.2
Own illness or disability	1.6	1.0	1.3
Other personal or family responsibilities	3.5	45.0	24.0
In education or training	17.0	16.1	16.5
Retired	2.0	1.1	1.5
Believes that no work is available	8.4	11.0	9.7
Waiting to go back to work (laid-off people)	0.3	0.2	0.3
Other reasons	7.1	4.6	5.8
No reason given	0.1	0.5	0.3
Total	42.9	81.9	62.2

In general, the labour market contain large gender differences, where women usually are inactive because of family responsibilities, as illustrated in the table above (KAS, 20.05.2017). 1/10 women in Kosovo are employed, and another 1/10 would like to get a job. The other eight are neither employed nor looking to get a job. Women are normally discouraged from working outside the house because they are already committed to take care of children, the elderly or for a host of other reasons. Women in rural area has the worst condition due to the isolation in villages and because Kosovo's patriarchal culture closes numerous professions as unsuitable to women (Gashi, A. & Co, 2014, p. 5,18).

3.2 Brief history overview

Kosovo's history is intertwined with the histories of its neighboring regions. Kosovo's modern history can be traced to the conquest of the Turkish Ottoman empire in 1389. This rule lasted about 500 years, forcing their culture and religion into the population. The Balkan wars started in 1912, where Serbia claimed control of Kosovo from the Turks. Serbia won the war and Kosovo became part of the Kingdom of Serbia. In 1946 Kosovo got absorbed into the Yugoslav federation, and in 1974, President Josip Broz Tito recognizes the autonomous status of Kosovo, giving the province self-governance. After Tito's death in 1980, a rotating presidential rule held

on the power of Yugoslavia. When Slobodan Milosevic came to power he ended the rotating presidential rule and took away the autonomous status of Kosovo in 1989. Further on, from year 1993 the ethnic tension and armed unrest escalated (BBC, 17.01.2018). Within the coming years, the Serbian forces responded with a ruthless program of ethnic cleaning, and over 800.000 Albanians were forced from their homes. UN condemned this excessive use, and NATO gave an ultimatum to Milosevic to stop the ethnic cleaning. The extreme violence continued and NATO responded with air strikes in Belgrade, in the name of humanitarian intervention, until Milosevic agreed to withdraw troops from Kosovo (Encyclopædia Britannica, 22.11.2017).

The NATO intervention in year 1999, ended the civil war between Serbians and Albanians, and launched United Nations Interim Administration Mission in Kosovo (UNMIK) to rebuild the country after the civil war. UNMIK had responsibility in four sections; the police and justice, civil administrant, democratization and institution building and reconstruction and economic development. To do this UNMIK set forth a policy of standards for Kosovo, known as 'standards before status', consisting of eight standards which Kosovo had to reach before they could begin negotiation on Kosovo's final status. The essence of the standards requires Kosovo's institutions to demonstrate their willingness to address issues that relate to the universal human rights standards. Kosovo's final status would only derive when the laws that would protect the universal human rights were implemented, with special attribution on specifying minority and women rights. Additionally, it was necessary to establish effective institutional mechanisms to respond to any violations, distribute resources fairly between the whole population and develop education curricula that encourages toleration and respect for universal human rights (ESI, 2004) With this in mind, Kosovo declared its independence in 2008 and made a new official national law. This Constitution was drafted by an expert commission with significant involvement of the international community and reflects the universal human rights (OPM, 10.04.2017). From the date of the independence, the mission of UNMIK was taken over from the EU. UNMIK still exist today in Kosovo but has a relatively minor influence. EU created the European Union Rule of Law Mission in Kosovo (EULEX) to operate within the same framework as UNMIK. EULEX assist and support Kosovo, its judicial authorities and law enforcement agencies towards achieving progress on sustainability and accountability in developing an independent multi-ethnic justice system which adhering to internationally recognized standard and European best practices (EULEX, 24.04.2018). The

term international community is used as a common term for UNMIK and EULEX which has influential authority in Kosovo's development.

3.3 The tradition of Albanians and the role of the Elders

Kosovo's complex timeline considering the different happenings throughout its history, led Albanians in Kosovo to experience hatred, persecution, war and ethnic cleaning. To avoid the forced and imposed external laws from different occupations, Albanians lived isolated in the mountains areas and escaped assimilation with the people invading their land. As a result, different tribes of Albanians started forming their own societies, in the absence of their own state. The outcome was customary law, a form of internal judicial self-government which reflected the patriarchal life. This means that several *Kanun*'s were in existence. However, the *Kanun of Lekë Dukagjini* is the most widely known, and is a comprehensive summary of traditional Albanian law, which is still in practice in Kosovo (Trnavci, 2008, p. 2-6). The *Kanun* is a model of traditional organization of Albanian's life. The *Kanun* was unwritten, and the traditions was brought forward to generation by orally transmitting the knowledge to its people. There is a collection of the unwritten norms, which Shtjefën Gjeçovi gathered and wrote for the first time in the 19th century. It was published after his death in 1933. The collection is divided in 12 books, with 1,200 articles on how to behave within the family, clan, friendship, banner and fatherland in regard of the gender and the position in the household. Highlighting the fundamental categories such as honor, dignity, respect, good behavior and hospitality (Hoxha and Maksutaj, 2017, p. 19).

Many women still view their social position under the framework of the *Kanun*. Since the content of the *Kanun* are social norms build up through collective Albanian history, this law function in that way that Albanian addresses these standards. In this way the *Kanun* plays a vital role in preserving Albanian cultural identity. It covers all specters of an Albanian's life. The *Kanun* was never state regulated, but were seen as a more trustworthy law, since external and enforced laws were not equally fair to Albanians throughout the history (ibid, p. 21, 25).

The ones preserving this law are the Elders in local communities. To become an Elder, one has to be a man and has to be chosen from the commission of Elders in the local community. The qualities which are demanded are wisdom, loyalty, traditions and most important the person has to show the ability to establish peacefulness in his local community. Furthermore, the procedure of Elder mediation gets started when they are summoned by families who need their

advices and authorities. The Elders would then gather and go to their home, or another home which is voluntary given for the sake to reconcile or settle a problem in the local community. The period of stay includes accommodation and food for as long as the procedure of mediation is ongoing. Depending on the problem, it can take from days to weeks until a case is resolved. When the Elder complete and close a case, they usually receive gifts in form of money for their services (ibid, p. 461, 465).

It is acknowledged that the *Kanun* still is preserved and functioning, but to what extend is difficult to say. The findings of this thesis will contribute to understanding its influence in rural Kosovo today.

3.4 Kosovo law's protecting women's rights

The Constitution of Kosovo, which was made with a significant involvement of the international community, incorporated several international human rights standards. Eight international conventions were directly applicable in the Constitution, including the Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW). All of these conventions have priority over national provisions of laws or other acts of public instruments, in cases when they conflict with international human rights provisions (The Constitution, Art. 22, p. 6). Furthermore, Kosovo has also adopted separate legal framework to attain gender equality. In reaction to GBV forms at home, Kosovo adopted Law on Protection against Domestic Violence in 2010. Beneath is the definition as described in the framework (The Law on Protection against Domestic Violence, Art. 2, p. 1-3):

acts of domestic violence is defined as intentional acts or omissions when committed by a person against another person with whom the person is in a domestic relationship. These acts include, but are not limited to;

a) use of physical force or psychological pressure; b) inflicting or threatening to inflict physical pain or psychological suffering on another family member; c) causing the feeling of fear or threat of dignity; d) physical assault; e) insult, offence, calling by offensive names, and other forms of violent intimidation; f) repetitive behaviors with the aim to denigrate the person; g) non-consensual sexual acts; h) unlawful limiting of the freedom of movement of the other person; i) damaging the property or threatening to damage the property of another family member; j) causing the other person to fear for his or her physical, emotional or economic wellbeing; k) forcibly entering or removing from a common residence the other family member; and l) kidnapping.

Family relationship is considered to exist amongst persons if they:

are engaged or were engaged; are married or were married; are in extra marital relationship or were in an extramarital relationship; cohabitate in a common household or were cohabiting in such a household; use a common house and are in connection by blood, marriage, or adoption, are in-laws or in a guardianship relationship, including parents, grandparents, children, grandchildren, nephews, siblings, aunts, uncles, or cousins; are parents of a common child; and are procedural parties in a dispute related to family relations.

The last mentioned is unique for Kosovo, as families usually live on the intra-familiar forms of habitation. This law would then protect all persons within the household.

Further on, Kosovo have GBV mechanisms formally implemented. This include mechanisms within prevention, protection, prosecution, rehabilitation and reintegrating services for each institution responsible. I will emphasize the process from a victim reports a case to the police, to getting medical help, social assistance and to settling in the safety shelters. I will lastly mention the legal modern mediation form, which people use to get fast solutions on issues in the local community. However, this does not apply to GBV cases, but are associated with the Elder mediation form.

To report a GBV case, it usually starts with a victim calling the police for help. The police then investigate the crime related to GBV and refers the victims to relevant services. The police can accompany the victims to their homes if they want to take their personal belonging. The police have to respond to any threat or acts if there are any suspicions of GBV form. They can respond by arresting the perpetrator immediately. In cases where the victim need emergency aid, the Legal Aid Offices provide legal remedies to vulnerable groups. These remedies are covered by social assistance (Farnsworth & Co, 2015, p. 60-68). The Centers for Social Work offers services to protect citizens in emergency need. The Centers also coordinate activities with other actors in the process of supporting and empowering GBV survivors. The staff of the Centers are obliged to coordinate a victim's social services, up to their needs in reintegrating them into the society. They do this by appointing a case manager to assess the social and economic position of the victims. In cases necessary, the survivors of GBV get transferred to safety shelters. The safety shelter aims towards rehabilitation and reintegration. The victims can stay as long as they want for a temporary period, depending on their specific case. They can stay up to six months at a given shelter, though exceptions are made when needed. All shelters organize various professional courses for women to attend, in order to help them find a job after they leave the shelter (ibid, p. 73-77). The table below illustrate reported cases to various institutions, over several years (ibid, p. 37):

Table I. Number of Domestic Violence Cases Reported to Various Institutions

Year	Police	Prosecution	KJC Crime Proceedings	VAAD/ VAAO	MLSW (shelter)	Legal Aid Offices ¹³⁰	CSWs
2001	N/A		N/A	N/A	N/A	N/A	N/A
2002	1273		N/A	N/A	N/A	N/A	N/A
2003	1251		N/A	314	N/A	N/A	N/A
2004	1318		N/A	414	N/A	N/A	223
2005	1370		72	592	N/A	N/A	380
2006	1371		73	703	N/A	N/A	438
2007	1077		74	645	N/A	N/A	170
2008	1034		2795	610	290	36	247
2009	1080		N/A	654	225	20	92
2010	944		N/A	627	229	76.5	229
2011	1046	524	N/A	739	267	76.5	226
2012	1026	736	596	868	241	60	
2013	1087	4290	330	892	268	17	
2014	1179	6036	196	391	281	23	
2015	460		159			5	
	(June)						

In despite of the GBV mechanisms available, there is a substantial gap of the situation of women in practice. The practical implementation of the above described state services to help GBV victims have rarely been used in Kosovo courts. All the public institutions should follow Standards Operation Procures (SOPs) in cases of GBV. The SOPs standard is an important document, adopted by the Kosovo National Coordinator against Domestic Violence in 2013, and provides details about the legal and institutional roles and responsibilities of independent institutions, courts and the prosecution. The document also offers more professional training on trauma and counselling the GBV survivors with the approach they need (ibid, p. 9, 16).

When a case gets reported to the police, the victims get two options on how to proceed with the case. The first one is to proceed with judicial court, while the other one is to solve the problem with modern legal mediation forms. The legal mediation form offer people to resolve their disputes outside the courts. This happened with guidance of an impartial third person, a mediator. They facilitate the communication between parties so that the parties can reach a mutually agreeable solution. The mediators are ordinary persons with training and license by the Ministry of Justice. The mediation process is voluntary and the parties can reject the procedure and continue with judicial proceedings. The mediators function to address disagreements regarding legal-assets matters, commercial, family, labor, other civil, administrative and criminal relationships, on which the parties can freely act with their good will. In this way people can get access to justice though quick solutions. Only criminal offences

that carry a punishment of a fine and/or up to three years' imprisonment may be referred to this kind of mediation. It's important to note that GBV cases are not appropriate for mediation (USAID, 2017, p. 4-7). However, many of the Elders are licensed to do mediation, as they are trustworthy and people turn to them for advices. And as legal mediation does not take on GBV cases, my findings presented in chapter 6, show that they sometimes do.

4. PREVIOUS RESEARCH

Based on field-studies and interdisciplinary literature, conducted by Avdyl Hoxha & Rexhep Maksutaj (2017), Genc Trnavci (2008 and in 2010) and Elanor Pritchard (2016), I will in this chapter I have describe the *Kanun*'s influence in rural areas in Kosovo. Additionally, I will define the GBV concept and explain how this affects GBV and the possibilities for gender equality. Lastly, in this chapter I will include honor and shame, as they have a main importance in the Kanun.

4.1 The *Kanun* in Kosovo

According to Hoxha and Maksutaj⁴, the traditional Albanian law is still in practice in Kosovo, in some places more than others. They argue that the *Kanun* is a moral norm, which is interlinked with the legal and ethical aspects of Albanians lives. One cannot separate the legal and ethical aspect from each other. The *Kanun* and its traditional codes have managed to survive, despite the historical requests and the development of the modern civilization. Albanians still value the social norms and turn to the Elders when they need a solution for important issues. Some social norms are more valuable than the others, such as the hospitality which has a main importance (2017, p. 107-109).

Trnavci⁵ on the other side argues that the *Kanun* endures particularly in rural environments, until the present day. He agrees that the norms have a strong impact among Albanians nowadays, beside contemporary constitutional and other legal rules. In this way the *Kanun* lives as an alternative or supplementary body of law to national legit law. This is how people in rural areas have been able to preserve their identity, neutrality and the way of life over the past centuries. The negative side of this, even now, positive law of inheritance is often ignored to the detriment of women's heirs (2008, p. 1-4, 9). It's important to note that the *Kanun*, even though it is an unwritten popular law, it is not a product of individuals, but of the people. As it

⁴ Avdyl Hoxha, is the current Head of Elders in Kosovo. He co-wrote *The Rights of Albanian Custom* (Albanian: E Drejta Zakonore Shqiptare) with Rexhep Maksutaj in 2017. This book was financed by the Ministry of Culture, and the content is research done throughout Kosovo and Albania about the *Kanun* in general, its codes and its relevance in today's society.

⁵ Genc Trnavci is a Professor of Law at University of Bihac in Bosnia and Hercegovina. He studied about Albanian customary law and wrote several articles about the *Kanun*. His work from 2008 about *The Kanun: A Clash or Synergy with Modern Law* and *The Interaction of Customary Law with The Modern Rule of Law* in 2010, are based on historical references combined with the present situation.

is said: “*people respected the Kanun, so it remained among the people*”⁶. In many cases, the social norms were adjusted to specific needs of different regions. It should be added, however, that the rules of the *Kanun* actually reflect many foreign influences. Most of them were results of undergoing continuous changes parallel with socioeconomic and cultural changes (ibid, p. 11, 15).

Furthermore, Pritchard⁷ explains that the *Kanun* was not used as a tool of governance, in the sense of legislation promulgated by a ruler, but clarifies that the codes are legal and the codes can have significances, purposes and can be used beyond straightforward implementation. Since 1999, the international community have introduced a new legal system, taking place as a parallel law to the *Kanun*. This has affected many aspects of people’s everyday life because the *Kanun* has been a way of life for most of the people before the civil war (2016, p. 474, 475).

4.2 Gender roles in rural areas

Hoxha and Maksutaj argue that gender roles are differentiated according to the categories, such as; honor, dignity, respect, good behavior and hospitality. The authors acknowledge that women did not have rights in the past, and that they were enslaved underneath their husbands’ authority, bound to housework and children care. As time passed with the modernization, they affirm that women got more rights, specifically within the family and the marriage (2017, p. 19, 197). In the *Kanun* it is said: “*The husband has rights and the wife has duties*”⁸. Gender roles are specified in the *Kanun* (Article 13, §32 and §33) into duties of the husband and the wife (ibid, p. 128):

§ 32: *The husband’s duties towards his wife: To take care of her shoes and clothes (to buy them), and everything else she needs for living; To take care of his wife’s honor, and to not leave any space for any potential complaints*

§ 33: *Women’s duties toward her husband: To take care of her husband’s honor; To take care of her husband in every way; To be under his control; To respond the responsibilities of the coronation; To raise his children with honor; To take care for his shoes and clothes (sewing); To not stir in his sons and daughters’ engagements.*

⁶ “*Populli e respektonin Kanunin, kështu që qëndroi në mesin e popullit*”

⁷ Elanor Pritchard, finished DPhil in Socio-Legal Studies where she wrote about the Law and Albanian national building. Her latest article *Nested comparisons: nation-building through comparative thinking about Albanian law* is based on a field-study and historical references.

⁸ “*Burri ka te drejta gruja ka detyra*”

According to Trnavci, the *Kanun* was perfectly suited to the patriarchal conceptions of a Balkan man, in this context the Albanian man. It became the main regulator of social relations, especially among peasants (2008, p. 6). He argues that even though the *Kanun* is retrograde, patriarchal, sexist and rough it still has some considerable positive effect on today's society. The *Kanun* provided a form of internal justice for subjugated people, and Albanians still have a reverence for honesty and good faith that plays an almost sacred role (2010, p. 203, 215).

4.3 The commitments to honor and violence

Hoxha and Maksutaj state that Albanians do honor through their female members, by saying that "*the honor of the wife, is the honor of the husband*".⁹ The husband has the duty to teach and yell at his wife, when she does mistakes, does not listen to him and when she does not do her belonging chores. When the wife shows contempt of her husband's words, when she is guilty and violent, then the husband has the right to punish her. He can either beat her or evict her to her parents. The reasons can be; if the wife does not know how to raise the children properly, or when she gossips and talks bad about others, or when she leaves the house and comes back without her husband's approval (2017, p. 193- 194). However, if she does not surrender, then the husband has the right to even kill her. Albanian wives have to demonstrate the acceptance of the authority of their husbands, by showing willingness and drive to serve him with the greatest opportunities she has. The husband has the right to kill his wife in three occasions; if she is found to be unfaithful, if she doesn't take care of him and if she steals from him (ibid, p. 195- 197).

As honor has a main importance by the *Kanun*, and it is still visible in the rural areas of Kosovo, the women are limited to their husband's honor and the honor of their parents. Still today, women's practical rights cannot be compared with the rights of their husbands, except from protecting her honor (ibid). Trnavci adds that women, according to the *Kanun* are considered to be of a lower social status. They do not share the same rights and privileges or the responsibilities as men. Trnavci underlines that, no matter how brutal the *Kanun* may be in some respects and discriminating to women, the *Kanun* reaches almost all aspects of society. This reflect that Albanians, women or men, knows their decided duties and should live by them (2008, p. 2, 24).

⁹ "*Nderi i grues, është nderi i burrit*"

4.4 A synergy with modern law

The rights of Albanian custom, according to Hoxha and Maksutaj, is a cultural right. It is orally preserved and has served to the regulation of the juridical relationships throughout the centuries in our region, which reflect the economic and social situation of the past. The *Kanun* is a cultural monument of the traditional rights of the Albanian people. The noteworthy of the *Kanun*, is its voice, which include traditional songs, dances, epics, legends, myths, cultural material and more. This is created by the Albanian people throughout the centuries and reflect their philosophy, their mindset and their wisdom. Albanians still values these aspects of the culture and consider it to be part of their identity (2017, p. 21-22).

Pritchard explain that Albanians validate external involvement of state building, such as the international community since 1999, and intrinsically links it with their understanding of former historical occupations. Kosovo society has shown slow progress toward full international recognition, and does not apply to the new state laws that has been developed, because their mindset is based on old habits of the *Kanun* (2016, p. 480-481). Trnavci believes that the rise and development of the modern state will gradually supplant the need for customary law and the *Kanun*. In current conditions of the system of the Elders it is necessary to maintain a sense of security in society, especially in rural areas. The more modern, sophisticated and publicly administrated laws will be, the more they will supplant the local and tribal justice of the *Kanun*. But, as Trnavci states, if the new improved rule of law is to be succeed, it should found itself on the concepts of community, good faith, hospitality and reciprocity that are at the heart of Albanian customary law (2010, p. 215). On the other side, according to Pritchard, young, urban and educated Albanians, identify the *Kanun* only as being of historical importance to the nation. They dismiss any idea of its ingoing relevance. Some of the ways of traditional life are practiced as described in the *Kanun*, particularly those connected to engagement, marriage, inheritance and the inviolability of the home, they see these as residual, and reject the idea that they are part of a comprehensive framework of right behavior. In contrast, older, and more rural and less educated Albanians are comfortable with the traditional customs. They understand them as a significant part of their lives. Such practice is particularly apparent at times of birth, marriage, death, inheritance, land-ownership and dispute conciliation (2016, p. 481).

4.5 The practical experience of the law

A visible promotion of gender equality in Kosovo started with the international community's involvement in the region. Different organizations have done research on GBV in Kosovo, providing valuable information and recommendations for both policy makers and private actors to prevent future violence. The GBV concept as defined by the Convention on the Elimination of Discrimination against Women (CEDAW) include;

violence that is directed against a woman because she is a woman or that affects women disproportionately.

This means that violence against women is not something occurring to women randomly, but rather an issue affecting them because of their gender. The definition further underlies;

Acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.

This specifies that GBV may constitute a violation of women's human rights, such as the right to live; the right to equal protection under the law; the right to equality in the family; or the rights to the highest standard attainable of physical and mental health (CEDAW Recommendation No. 19, p. 1).

To reflect the linkage GBV has with the Albanian culture, I will emphasize reports from Kosovo Women's Network (KWN) and UNICEF Albania¹⁰, which shows us key challenges and long-in preventing GBV in Kosovo. KWN reports that it is the individuals in rural areas, with low levels of education, who tend to be more likely to suffer violence (Farnsworth N & Co, 2015, p. 4, 45-49). Moreover, GBV is still generally considered shameful in Kosovo. Another KWN research got this answer: "*Violence is not present in our region because our women are very obedient*", by a civil servant in one municipality when visiting governmental institution regarding their responsibilities. This means that women 'must be' obedient or violence will be used. Another response was: "*We still are a patriarchal society. We still don't believe in women and children. That's why we repress them*" (Farnsworth N & Co, 2012, p. 3).

¹⁰ The report from UNICEF Albania shows results from a study conducted in Northern Albania. Its findings are relevant to my thesis as it is the same cultural context in Kosovo.

Many women view their social position under the framework of the *Kanun*. Albanian women are taught by their parents to be submissive, passive, depended and obedient to males. If they are disobedient, it is acceptable for the males to use violence to discipline them and maintain control (Laurent 2006, p. 24-25). A general acceptance of violence in the family is imbedded in the Albanian society, where many women do not understand the concept of domestic violence as a criminal offence. From experience women have seen their mothers beaten, and they think it is normal to be beaten, or to be shouted at by their husbands or that it's their right to beat them (Ibid, 33-34).

It's important to note that adoption of legal frameworks is not enough, says Sally Engle Merry¹¹. The services behind these legal frameworks, such as police, prosecutors, judges and probation offices need to reflect back these rights. Indications that the problem is trivial, that the victim does not really have these rights, or that the offender does not deserve punishment undermine this subjectivity (Marry, 2003, p. 244). Battered women are often slow to take in rights, despite considerable emphasis on rights by shelter staff and court advocates. Even after calling the police for help and filing for temporary restraining orders, battered women are likely to refuse to testify or to drop the restraining order. They clearly fear revenge by the batterer, because the resistance comes from a sense of self that is deeply rooted in family, religion and community. Taking on a right defined self in relation to a partner requires a substantial identity change, because her actions allows the law to define her husband as a criminal. A battered woman may be pressured by kin to feel she is a bad wife, while her partner may claim she is taking away his masculinity. The only way she can rescue him from this loss is to deflect the legal sanction she has brought upon him. This is the reason why battered women usually ask for help from the law, back away, and then ask for help again. These women appear to be difficult or 'bad' victims since they drop chargers and ask for help again. Yet, these women are having difficulties tracing back and forth across a significant line of identity transformation (ibid 245).

These women talk about the importance of caring for their families and express anger and frustration at the degree of surveillance they experience from their partners, but they very rarely assert a right to privacy. Thus, an individual's willingness to take on rights depend on their

¹¹ Sally Engle Marry, Silver Professor of Anthropology, NYU College of Arts and Sciences. Her concern of rights talk is important, because women who are trapped in gender and culture ideologies have difficulties to understand their rights.

experience trying to assert them. The more this experience reflect a serious belief that she is a person with a right not to be battered, the more willing she will be to take on this identity. On the other hand, if these rights are treated as insignificant, she may choose to give up and no longer thing about her injustice in term of rights (ibid, 346-347). In short, women's ability to take on rights depend on how the law treats them.

In general, Kosovo has had a significant progress over the past decade, working towards gender equality. Even though several new legal frameworks, including CEDAW, has been incorporated in Kosovo, there is still a substantial gap between mechanisms available and the situation of women in practice. In rural areas people feel comfortable with the *Kanun*, and uses it as a parallel law of the state.

4.6 Honor and Shame

Most studies related to honor and shame culture in Kosovo are linked to honor killings and man's dominance. In this section I will write more generally about honor and shame as a phenomenon in general, within the context of Kosovo. Honor has main importance in the *Kanun*, and its relevance has to be presented. Julian Pitt-Rivers in Giordano¹²(2016) define honor as;

A feeling, a specific state of consciousness based on a certainty that there's nothing to be self-reproachful about and that consequently one can feel proud of. Honor has always something to do with demonstration, competition, and above all reputation. One's behaviors are considered in relation to their reception and appraisal by the actors of own society.

With this definition, Christiano Giordano argues that honor is not constant, but rather a subject to change. Honor can grow, but can also be lost. Public opinions constantly redefine the 'good name' of the honorable. The actors feel and are considered dishonored 'shameless' only when they damage to honor becomes public (p. 418-421). Social control within the family and relatives is a fundamental social guarantee for the continuity and reproduction of cultural models linked to honor. This then raises the question of the role of a 'façade' where members have to safeguard their 'façade' as a presentation of self in public (ibid, p. 421, 424).

¹² Christiano Giordano is a Social Anthropologist and co-founder of Anthropological Journal on European Cultures. His comparative research on honor is relevant to my topic.

According to Jean G. Peristiany¹³ in Herr (1969), the concept of honor and shame dominate small scale, exclusive societies where face to face personal relations are of paramount importance. Personal honor is the highest social value, determining an individual's status and obliging them, conform to the local moral code. Furthermore, in most of these societies, honor is not individual but collective, for an individual's component reflects on his family or his clan. This means that reputation dominates everyone's life (p. 89). Peristiany argues that basis for honor and shame is essentially sexual. Women are expected to be chaste, virgins until married and faithful thereafter. One mistake can destroy their honor and their families honor as well. This is because women are assumed to be under the control of men. On the other hand, a man's honor is measured by the quality of their physical bravery. He must avenge insults to himself and his family. In short, modesty is desirable in women, but cowardice is dishonorable in men (ibid, 90-91). Additionally, Peristiany argues that honor and shame are the constant preoccupations of individuals. Within their village communities, the family is the basic unit which act for the preservation of economic interest and of its moral integrity. The assessment of these actions by village public opinions lays the foundation for the family in terms of the honor hierarchy (p.89-91).

GBV has until recently been outside of public scrutiny as Yakin Erturk¹⁴ (2009) claims. She agrees with Peristiany and about the patriarchal power being supported in a hidden manner by societal values, institutions and laws (p. 61-62). The family's honor is presumed to be achieved through the conduct of its female members, founded upon their body and sexuality, which is directly related to shame and modesty. In this respect preserving the honor of the collective group requires women to exercise modesty and obedience, and men to exercise control over women to ensure their compliance with the group norms (ibid, p. 64).

¹³ Jean G. Peristiany is a well-known Anthropologist, and dealt with the significance of the honor and shame concepts in the culture of the Mediterranean area.

¹⁴ Yakin Erturk is a Professor of Sociology at Middle East Technical University in Ankara, and former UN Special Rapporteur on violence against women. She challenges long standing gender ideologies and taboos in here comprehensive work.

5. RELEVANT THEORETICAL PERSPECTIVES

I will be using a number of relevant theoretical perspectives in order to better explore the issue and go deeper into understanding the gender problem in an environment that has been subjected to a lot of changes during the history of Kosovo. This chapter will start by presenting Parekh's perspective on cultural identity, and will be followed by Okin and McKerl feminist views on multiculturalism. Next on, I will use work from such as Herr, Moya, Pogge, McKinnon, Rao and Hossein to discuss how the issue of GBV has deep roots to the practice of cultural customs. In the last part I will include Standish, Merry, Pospisil, Moore, Diamond, Douzinas and Ignatieff in explaining cultural violence and legal pluralism. I will lay emphasis on the feminist voices through this chapter explaining the current women's situation and the barriers they encounter.

5.1 Cultural identity – a way to live the ‘good life’

According to Bhikhu Parekh¹⁵, culture encompasses more or less the whole of human life. Culture is a historically created system of beliefs and practices in terms of which group of human beings understand, regulate and structure their individual and collective lives. In this way every culture is also a system of regulation. It approves or disproves of certain forms of behavior and ways of life, prescribes rules and norms governing human relations and activities, and enforces these by means of reward and punishment (2006, p. 143-144, 156). They also acquire particular habits of thoughts and feelings, traits of temperament, inhibitions, taboos, prejudices, and musical, culinary, sartorial, artistic and other tastes. They build up a body of sentiments and memories, acquire love of certain kind of sounds, smells and sights, heroes, role models, bodily gestures, values, ideals, and ways of holding and carrying themselves. This means that culture strikes deep roots and becomes part of member's personality. This foster a content of identity and identification with a particular group of other people (ibid, 155-156).

On the other side, Parekh argues, even though cultural identity matters much to the individuals involved, one has to disallow cultural practices that causes harm to others. He does not elaborate in details, but mention female circumcision, polygamy, subordinate status of women and more. These are cultural practices that are harmful for its members. For Parekh, it's important not to

¹⁵ Bhikhu Parekh is Professor at the Centre for the Study of Democracy in the University of Westminster, UK. His work on political philosophy, within understanding culture and multiculturalism is of significance.

absolutize liberalism, and make it the central frame of reference. We have to accept and acknowledge that the good life can be lived in several different ways, some better than other in certain respects, but none is the best. Parekh state that's it is important to understand cultures from within before passing judgements on them (ibid, p. 264-266, 109-110).

However, our respect for cultures, is based on our assessment of its content or the kind of life it makes possible for its members. Since every culture gives stability and meaning to human life, holds its members together as a community, it deserves respect. As long a cultural community respects human worth and dignity, safeguards basic human interest within the limits of its resources, poses no threat and provides the basic conditions of the good life, it deserves to be respected and left alone (ibid, p. 176-177).

5.2 Multiculturalism – fails to address GBV

Multiculturalism, according to Susan Moller Okin¹⁶, traps and makes women victims within their own cultures. Although she is addressing this issue for minority cultures in the context of western liberal democracies, the same applies to Kosovo context. This because the international community developed and implemented international ideals in Kosovo, whereas traditional and cultural customs becomes a barrier for women to enjoy their rights fully. Okin argues that women in liberal western societies have greater freedom of choice in their lives than women from non-western cultures (McKerl, 2007, p. 192). Mandy McKerl¹⁷ agrees by saying that women from western cultures are less subordinated and live with less violence in their lives than women from non-western cultures. She further claims that women are not treated as full human beings in law or in certain cultural construction, but are in fact treated as assets. Women have secondary status in public life, as they hold few positions in politics, the judiciary, economics, universities and religious institutions. The outcome of this is that women have to adapt their lives to expectations within a patriarchal paradigm. In this way McKerl argues that women are not able to gain power within the patriarchal paradigm and would not be considered as full citizens (ibid, p. 188-189).

¹⁶ Susan Moller Okin, was a liberal feminist, political philosopher and author. She wrote *Is Multiculturalism bad for Women*, and claims that 'culture' should not be used as an excuse for rolling back the women's rights movement.

¹⁷ Mandy McKerl is a feminist and critiques multiculturalism in that way that it fails to protect GBV victims.

Okin's position contrast positive assessments of multiculturalism such as that of Parekh, that stress the importance of acknowledging the existence of ethnic diversity and ensuring the rights of individuals to retain their culture. This is concurrent with the motion of enjoying full access to, participation in and adherence to constitutional principles and the commonly shared values prevailing in that society. Supporters of multiculturalism would also argue that this enriches society as a whole, in contrast to critics the thoughts that multiculturalism has the potential to foster highly divisive social conflicts (ibid, p. 194).

Okin, more radically, states that human rights illustrate some of the conflicting and competing value systems that operate between and across individuals and groups. She suggests that women in non-western cultures might be much better off, if their cultures were either to become extinct or preferably to be encouraged to alter itself and to reinforce the quality of women. McKerl interprets this by understanding, also from her own experience in the field, that it is the women's rights as citizens that have to be protected from violence and abuse and not human rights who have to be upheld. At the same time, it's crucial that the state protects its citizens by implementing different UN resolutions, and enacts and uphold these laws (ibid, p. 195).

5.3 Feminism on gender inequality

Feminist critiques argue that identities are pertained to gender, class, race, and culture are all 'regulatory fictions' that have been consciously and subconsciously instituted and reinforced by the privileged and oppressed groups alike to serve the interests and the power relations of the status quo. They are all manufactured and sustained through corporeal signs and other discursive means (Herr, 2004, p. 79). Furthermore, Pala Moya¹⁸ holds that no identity is fixed and immutable. We are able to choose from multiple identities feasible in our social location. However, she adds, social location is causally relevant to our experiences and will influence the formation of our identity. This in turn will play a critical role in organizing subsequent experiences. Moya explain that to whom reality consists of oppression and discrimination owing to their astrictive traits such as race, ethnicity or culture, one of the most effective ways to resist oppression is to demand recognition and reevaluation of the missrecognized aspects of their social location (ibid, p. 81).

¹⁸ Pala Moya, Feminist author of *Postmodernism and Politics and Identity*.

According to Okin, the liberal western culture, although not perfect, have depart further from its patriarchal past, then others. She argues that this is the reason why western societies can provide a superior feminist alternative to current patriarchal societies. Granting patriarchal cultures various multicultural privileges in the public realm will only aggravate the misery of their women. This because women of such cultures will still be negatively affected. Gender oppression occurring in the private sphere will continue unmitigated, because it is at home where a great portion of insidious culture based gender construction occurs, through patriarchal indoctrinations. By supporting the survivals of patriarchal cultures, multiculturalism prolongs the suffering of women in such cultures. Therefore, Okin argues, one cannot equate the flourishing culture without the flourishing of its female members (ibid, p. 82).

On one side she adds that many patriarchal societies have their aspiration based on their customs to control women and render them, especially sexually and reproductively, servile to men's desires and interests. The meaning of such cultural practice, however, must be examined in their cultural and historical context. Certain customs may seem inveterately patriarchal for an outsider, but may harbor subtle and complex implications, some of which may even be women-friendly (ibid, 84). However, on another side, Okin explains, that women are subjugated by their patriarchal cultures and unable to speak for them self. Oppressed people have often internalized their oppression so well that they have no sense of what they are justly entitled to as human beings. They rationalize the cruelties, such as female circumcision, as necessary to successful female development, and also perpetuate the cruelties by transmitting them to their own daughters. Still they would be relatively happy about their constrained state when 'small mercies' are occasionally provided. In this way they are suffering from false-consciousness, and only committed outsiders can better criticize social injustice than those who live within the relevant culture (ibid, 86).

5.4 Feminism on rights in the family and private sphere

Human rights were originally intended to limit state power over its citizens. Violence that just happens, according to Thomas Pogge¹⁹, it's not systematic and do not involve state protection. Power operates in the public realm, and hence requires regulation, while the private realm is power natural (Parekh, 2007, p. 132). When human rights were developed, in a post-World War

¹⁹ Thomas Pogge, is a German philosopher and is the Director of the Global Justice Program and Professor of Philosophy and International Affairs at Yale University.

2 context of western hegemony and the raise of postcolonial movements, the dominant framework of human rights and its assumption of a universal human nature largely reflected the specific experiences, need and values of affluent white men. The states subject, whose rights were to be protected, implicitly reflected the experience and subjectivity of a masculine, rational, individual, who was not rooted in a significant way to community or social structure. Hence, if an abuses falls outside of the contract between the individual and the nation-state then such abuses will not be regarded as an abuse of human rights (Collins & Co, 2010, p. 304).

According to Pogge, violence against women may violate criminal law and be morally impermissible, but it has nothing to do with human rights. Human rights violations are said to occur in the public realm and must be committed by official state actors. Therefore, violence against women, usually committed by someone intimately know to the victim, is thought to be unorganized and unofficial. It is something that ‘just happens’ and precisely because it is not systematic, it cannot be said to involve the state. Feminist critique, for example as argued by Catharine MacKinnon²⁰, claims that the state perpetuates violence insofar as it does not act effectively to end it. We do have laws that officially proscribe gender violence, public founded institution that support victims of violence against women, and a court system that has developed a body of jurisprudence around domestic violence and sexual assault. Still this is not enough, and she argues that the states complicity in violence against women can be seen in the way it treats ‘domestic incidents’ and through the way courts uphold laws, in ways that favor violator, not victim of violence (Parekh, 2007, p. 132-133).

Merry includes and focuses on the culture part of GBV. She argues that it is one of the most difficult problems for women, because we tend to accept GBV because its cultural. The relationship between culture and rights is all the more important because GBV is often embedded in the ways culture regulate marriage, women’s sexuality, divorce, inheritance and child custody (ibid, p. 136). In similar, Arati Rao²¹ describes gender blindness, as being achieved by manipulating social factors that are specific to women’s daily life, such as religion, gender ideology and social roles. This means that women are bounded by cultural and social

²⁰ Catharine MacKinnon is an American radical feminist, scholar, lawyer, teacher and activist. Her work *Are Women Human* reflect women vulnerable position.

²¹ Arati Rao, Associate Director at Columbia University. Her analysis about gender blindness is relevant to this topic.

myth depicting them as weak, emotional, depended and shameful (1993, p. 511). She adds that the denial of conceptual reality to violence in the family, alongside the affirmation of the comprehensive rights of the husband over the wife, is part of the notion of family, with a long and deeply entrenched history in legislation, custom, and social practice. This is part of the private sphere, which is unequally weighted in values and expectations, as well normatively gendered with the public sphere. They are also both male dominated (ibid, 515-519).

Sara Hossein²² understands that international human rights instruments are implemented in states and are thus bound by the norm of equality and non-discrimination between men and women. The norm of equality is also reflected in domestic law, imposing an obligation upon states to make substantive interventions into the world of the home and the family. The imposed obligation is not only to eradicate formal inequalities but also to ensure substantive equality (Hossain, 1994, p. 465-469). However, according to Hossain, the equality principle domestically is eroded by the continued existence of personal law that discriminate women, such as religion, case and custom determine rights in matters relating to marriage, divorce, maintenance, guardianship and custody. In this way they perpetuate women's subordination within the family and contribute to the causes of continues GBV (ibid, p. 473).

5.5 Combating cultural violence

GBV is a world-wide issue and affects every social stratum in all cultures. As the majority of GBV occurs in the home, according to Katerina Standish,²³ such violence involve complex social and cultural factors, and the ability of victims to advocate for themselves may be limited. GBV is deeply embedded in systems of kinship, religion, warfare and nationalism. It is important to understand that the status of women, as full legal, social, economic and political entities is by no mean a universal standard, and GBV is therefore not in many places in the world considered to be criminal act (2014, p. 111-112). Merry further explain that GBV exist in patriarchal culture than enshrine male dominance over women, and elder male dominance over younger males. Harmful customary practices are articulated to traditions that hold that

²² Sara Hossein, a feminist lawyer at the Supreme Court of Bangladesh. She paled a key role in drafting Bangladesh's first legislation on GBV. Even though her work is directed on the South Asian countries, her knowledge about women's rights are essential to my thesis.

²³ Katerina Standish, Lecture at the National Center for Peace and Conflict Studies at the University of Otago. Her publications about cultural violence and gender promotes her interest for peace education and critical pedagogy.

women and girls are less valuable, and are exacerbated by a continuation of unequal power between men and women (ibid, p. 119).

To combat GBV, research is significant. Research provides activist, advocates, and policy-makers with additional information to inform decisions, strengthen arguments, and link GBV with 'risk factors' such as economic, social and gender inequality. The information gathering is a tool that not only increases the data available to make decisions but can serve to strengthen resolve in the struggle for human rights. GBV is sustained by silence, and social research not only documents and disseminates the realities of gender violence but becomes a tool for policy amendment and critical public attention (ibid, p. 119). Public attention will then challenge cultural practice that are considered customary human behaviors. Successful prevention might include an intervention that seek to transform a situation by either empowering people or limiting the ability of aggressors to act. However, combating GBV includes a variety of approaches. To some, the appropriate response to GBV involves criminalizing aggression and creating avenues where victims of GBV can flee violence in the home. For others, it involves creating legal structures that transcend sovereignty to support the human rights of women and children (ibid, p. 112).

5.6 Legal pluralism – two laws existing in the same social field

According to Merry, the concept legal pluralism includes the relationship between law and society. In this way every society is legally plural. She describes how anthropologists in early twentieth century did research on colonized societies and found out that the rich variety of social control, social pressure, custom, customary law, and judicial procedure within local societies had both indigenous law and European law (Merry, 1988, p. 869). She explains further that the colonized countries had laws developed over generations on to which formal rational law was imposed by the European powers. The imposed law, according to Merry forged for industrial capitalism rather than an agrarian or pastoral way of life, embodied very different principles and procedures. The anthropologists called this for legal pluralism, because they recognized that the introduction of European colonial law created a plurality of legal orders, but they overlooked the complexity of previous legal orders (ibid). Additionally, Pospisil as referred in Merry, defines legal pluralism as two or more legal systems coexisting in the same social field. He claims that every functioning subgroup in a society has their own legal system which is necessary different in some respects from other subgroups. Subgroups can include

family, community, political confederating and more. In this way legal system includes both formal as well non-legal forms of normative ordering (ibid, p. 870).

Stanley Diamond²⁴ defines the terms custom and law as something very contradicting (ibid, p. 875):

“Custom is spontaneous, traditional, personal commonly known, corporate, relatively unchaining. It is the modality of primitive society. Law is the instrument of civilization, of political society sanctioned by organized force, presumably above society at large, and buttressing a new set of social interests. Even though both custom and law involve the regulation of behavior, their characters are entirely distinct”.

He argues that the advancement of law will contradict and extinguishes custom (ibid). Furthermore, the reason new laws or attempts to direct change did not always produce the anticipated results, according to Sally M. Moore,²⁵ is that because social arrangements are often stronger than the new laws. This because customs involve complexes of binding obligations which are already in existence. The custom for Moore is a cultural construct with political implications, a set of ideas embedded in relationship that are historically shifting (ibid, p. 880).

It's important to understand that human beings have different needs and experiences of the social world. Therefore, its essential to recognize that human rights are not a set of foregone conclusions exclusively drawn down in legal documents, but rather that it should be understood as a terrain of social, cultural and legal struggle. Feminists are often engaged over issues regarding gender equality, resource redistribution, cultural expression, mobility and so on (Collins & Co, 2010, p. 307, 310). Similarly, the idea of human rights promoted a common framework that relied on a notion of nonconflictual pluralism. Merry describes this field as a transnational society where the participants live in two local places at the same time, navigating endlessly between them. By pointing this out, she is able to explain the relationship between 'local' and 'global' and opens a valuable window on a mutual interplay of forces whereby differently situated 'local' claims encounter each other (Reilly, 2011, p. 67, 70). As human rights might be defined as western ideals, the 'universalization' of human rights is often equated with processes of westernization and modernization. In this way it a false hierarchy of 'the

²⁴ Stanley Diamond was an American poet and anthropologist. He wrote several book about dualism which his knowledge come of use.

²⁵ Sally Falk Moore is a legal anthropologist and Professor at Harvard university. Her work on cross-cultural and comparative legal theory is relevant for this thesis.

west' and 'the rest' is produced, which is used to impose western defined agendas in less powerful nonwestern countries in the name of promoting human rights (ibid, p. 64).

Costas Douzinas²⁶ explain the paradox of human rights as including both universalism and communitarianism. He understands them as being depended opponents on each other. On one side we have the universalists claiming that cultural values and moral norms should pass a test for universal applicability and logical consistency. Communitarians on the other side, thinks that values are context-bound and tries to impose them on those who disagree with the oppressiveness of tradition (2013, p. 58). Douzinas further argues that the universal principles forget to consider every human being as something that comes into existence in common with other. Being in common is an integral part of being self, and this part only accepts human rights to the extent that they help submerge the 'I' into the 'we', all way from birth till death. This is because the commonality of tradition, history, culture, the past is inescapable and weight in determining present possibilities (ibid, p. 59). He concludes by saying that both universal morality and cultural identity expresses different aspects of human experience and therefore, it's no point of comparing them. When a state implement 'universal' human rights, it will do so according to the local legal procedures and moral principles, making the universal law the handmaiden of the particular. In contrast, we also have those legal systems that guard traditional rights and cultural practices from invasion of the universal human rights. It's important to understand that all rights and principles, even if they are narrow-minded in their content, they share the universalizing impetus of their form. In this way, rights carry the seed of the dissolution of the community and the only defense is to resist the idea of rights altogether. This because the claims of universality and tradition, rather than standing opposed in mortal combat, have become uneasy allies (ibid).

Additionally, according to Michael Ignatieff²⁷ the global and local values which compete for allegiance, local authorities are bound to have more influence in shaping the ordinary virtues (Ignatieff, 2017, p. 6). Since universalism is understood as deriving from a rational thought, that has the purpose to free societies by persuading the ordinary virtues to enlarge and expand

²⁶ Costas Douzinas is a Member of the Hellenic Parliament, a Professor of Law and the Director of the Birkbeck Institute for the Humanities, University of London. His work include critical thinking about universal morality and cultural identity, which are relevant applicable to my theme.

²⁷ Michael Ignatieff is President and Rector of CEU. He is an international commentator on contemporary issues of democracy, human rights and governance. His recent work on universal and local values are relevant to my topic.

their circle of moral concern. Since human rights are the opposite as the local values it functions best as a challenge to majoritarian moral preference. From this view it is seen as a crucial role in criticizing the partiality of the ordinary virtues perspectives. And human rights can only enlarge the moral scope of the ordinary virtues if it works with, rather than against, the intuition that what a citizen owes a stranger is not a right, but a gift (ibid, p. 7).

6. BETWEEN TRADITION AND EXTERNAL INFLUENCE

Throughout the fieldwork and internship, I have gathered an overall reflection on my research objective. Doing so, my stay in Kosovo, and especially my interviews gave me the chance of seeing the situation from their point of view – seeing the context from their eyes. With help of quotes and descriptions, I will present the interview findings of the reality in rural areas of Kosovo. Afterwards, I will analyze the findings by connecting them with my previous research and my chosen theoretical framework.

6.1 Attitudes towards physical and verbal abuse

KWN reports illustrates that in a patriarchal society gender roles are socially constructed in that way that women are the obedient and vulnerable while the males are the strong ones (Farnsworth N & Co, 2012, p. 3). Over 60% argues that violent behavior is normal and acceptable in circumstances where their husbands are unemployed or having private issues (Farnsworth N, 2008, p .2). This is true also for my informants. Lule says:

“Violence is accepted if you are guilty. For example, if you misbehave as betraying your husband than violence is accepted. Or if you do something that you should not do. This means that you got what you deserved.”²⁸ (Lule, age 35)

What Lule means with this line, is that all the women should know their husband’s needs and wants. By not acting according to their requests, then you automatically are asking to get beaten. UNICEF explains that Albanian women are taught by their parents to be submissive, passive, depended and obedient to males. Disobedient behavior leads to the notion that it is acceptable for the males to use violence to discipline and maintain control (Laurenti R, 2006, p. 13) Lule adds that it’s better to tolerate physical violence, than some words that is not bearable. For example, if your husband says offensive words or curse towards your family then the words will be in your head, while the pain will be forgotten.

Bajram and Hysen explained that:

²⁸ *“Dhuna pranohet nëse je fajtores. Për shembull, nëse ti sillesh keq ose e tradhton burrin atëherë dhuna pranohet. Ose nëse ban diçka që sduhet me ba. Kjo do me than se ke gjet që ki lyp”*

“The man can harm his wife until the boundary is reached. The boundary is reached when the woman has become disabled”²⁹ (Bajram, age 75) and “It’s better to be a victim rather than bring your brothers into fight/conflict”³⁰ (Hysen, age 50)

With these phrases they mean that the woman is the man’s asset. When she was unmarried, her father had responsibility for her, and when she gets married her husband has. Traditionally, marriage was arranged between two families who fit together, like *“a thread for a bag”³¹*. For example, you cannot sew a black bag with a red thread. This means that the families did research about each other’s relatives so they could have a suitable relationship. The wife is therefore obliged to look after her husband’s and his family’s needs and wants. If she doesn’t do this, then this is a sign that she does not respect the family arrangement which their families approved of. This lead to the ‘good name’ of both the families to be shattered. In cases her original family does not approve of this violence, her brothers are obliged to take revenge by causing her husband harm. According to Serena Parekh, a commonly articulated reason why a husband can be violent to his wife is because it does not seem to be a human rights violation. Human rights were originally intended to limit the state power over its citizens. Hence, violence that just happens is not systematic and do not involve the state. To back this reason, cultural excuses are created, and embedded in the ways culture regulate the way of life (2007, p. 132-136).

All my informants stated that *“a man should be a man”³²*. This means that the man should have a determined position. He should stay behind his words. When he commands his wife to do something, she should do it without questioning him. If the woman does not obey her husband, then he is not to be called a man. He could also be called a weak man that are not able to control his wife. At the same time, he should be able to control himself, and not to ask or do something which is unfair to his wife. I got surprised that my women informants also thought the same. The key factor in supporting the dominant and subordinated relations between husbands and wives is linked with the patriarchal mentality. The husband’s strong adherence to traditional attitudes supports the sustained violence at home (Laurenti R, 2006, p. 39)

²⁹ *“Burri mundet me i shkaktu dhunë fizike grues tej ta tejkalon kufirn. Kufiri tejkalohet kur e rreh aq shum që e len sakat”*

³⁰ *“Ma mir mu ba viktim se mi shti vllaznit në bela”*

³¹ *“Si harrni për thes”*

³² *“Burri mu kan burr”*

My informants agree that this lifestyle is still normal in rural areas. Especially those who do not have a good economic life. With the technology wave of social media nowadays, youth find their suitable partner on their own. Nevertheless, their mindset is transferred from their parents which were married through arrangements. Okin explains that parents usually transmit their own upbringing and cruelties they have endured to their own daughters because they see it as normal. Those values are often internalized in their lives that they have no sense of what they are entitled to as human beings (Herr, 2004, p. 68). Kadire say that many women in rural areas are oppressed and have no sense of what human rights are. She says that women live an isolated life as hers.

“Since I got married my life have been isolated. The only times I have been outside the house is when I have visited my mother – 2/3 hours and back in the house. People sometimes need to go out for fun. I have never done that. I have always been in the house and done the housework. Since I got married the family of my husband has always said – hush, you are a bride and are not allowed to talk. I have therefore always been afraid to say something wrong. It’s important to let the person speak up their mind. I have never been allowed to do that.”³³ (Kadire, age 43)

She continues by saying that

“every time I have said something against my husband or his family members I have been lectured to stay at my place. I do not have anything to say, except of doing my chores and nod if something is asked of me. I have been disciplined by being hit, beaten and sometimes lost my consciousness, simply because I did behave or said something my husband did not approve of. This happened to me by my father and brothers too, when I was a young girl. After a time, I understood my place, and did not speak my mind.”³⁴ (Kadire, age 43)

Lule and Fatime agree on this description, because it happened to them too. From the time when they were little girls their mothers had prepared them to become exemplary brides (*nuse*) when they got married. This includes to accept violence if we don’t do the obliged tasks. KNW explain that brides traditionally are the primary victims in a family. The tradition brings a bride into the husband’s family. Their main responsibilities are cleaning, cooking and serving guest.

³³ “Prej se jam martu e kam pas një jet të izolome. E vetmja her kur kam dal jasht shpis u kan kur jam shku musafir te nana jem – 2/3 or dhe jam kthy ne shpi. Kanihere njeri ka nevoj me dal për qef. Une kur skam dal ashtut. Gith jam kan në shpi dhe i kam kry punt e shpis. Prej se jam martu familja burrit më kan than – shuj se ti je nuse e shan me fol. Për qata gjith kam pas frik mos po tham najsen gabim. Esht me rëndësi me lan njerin me fol mendimin e vet. Une kurr se kam pas ket drejt”.

³⁴ “Sa here kam fol kundër burrit ose familjes burrit më kan than me nejt në vendin temin. Une skam pas me fol, vetem mi kqyr punt e mija. Më kan mshu, më kan rreh dhe kanihere më ka hup vedija. Veç që jam sill ose kam than diqka që burrit tem si ka pelqy. Kjo ka ndodh edhe te baba, ku ai dhe vllaznia më kan rreh kur jam kan ni qik e re. Mas ni kohe e kam kuptu vendin tem dhe skam fol ma”

They also occupy the lower position in the family decision-making (Farnsworth N, 2008, p. 38).

Fatime thinks it's unfair that women have to be treated like animals. *"The woman is like the cat under the table"*³⁵. This means that women always have to be afraid from someone superior. It's usually means from their husbands, but can also be their mother in law or other members who have some kind of power in the household. The woman is obliged to bear and tolerate. She is obliged to protect her husband and her family's honor. This mindset correlates with Peristiany's description of the concept of honor. Here personal relations are of main importance and obligated member to conform to the local moral code (Herr, 1969, p. 89). Physical violence in Kosovo is common, and is accepted in cases where the woman is not able to protect her family's honor.

*"If she does not do everything she can to save her family and her children – then she's worse than an animal"*³⁶ and *"the patient ones always wins"*³⁷ (Hysen, age 50).

Hysen argues that life brings on many and different challenges throughout a lifetime. The one who runs from their problems will never find harmony and happiness in their life. We have to be there and cope with the challenges that comes towards us. When we do that, we will learn to value things in the right way. This applies for women, in that way that they are the heart of the family. She can not only think about her own rights, because she has a family to protect. If there are some issues in the marriage, we have to be patient. Because only the patient would achieve happiness in the end. We cannot put ourselves first. The family as a whole must be the priority. Ultimately, it is the woman who are more interested in children and families. For the sake of the children the wife have to bear unfairness sometimes. The man is usually outside the house, working for the income for the family. He does not have time and interest as the women has for the family. Hysen's arguments are also reflected in UNICEF findings, where the majority of the respondents believed that women are encouraged to maintain their family intact at all costs. Meaning that they should sacrifice their individual needs to keep the family together and restore the marriage relationship (Laurenti R, 2006, p. 9).

³⁵ *"Gruja është si maca nër terpez"*

³⁶ *"Nëse nuk bën qmos për familjen edhe thmit e vet – atëherë ajo është më e keq se kafsha"*

³⁷ *"Ai që duron fiton"*

6.2 Sacrificing themselves for husband's and family's honor

All my informants expressed their views that it's hard to be a woman today. This because, as Hysen says:

*"The honor of a family is measured by the honor of the women inside the house"*³⁸
(Hysen, age 50)

They add that women get easily misused and have to be very carefully with their actions. To explain, Hoxha used an Albanian traditional proverb such as:

*"The woman is the dog's meat"*³⁹ and *"The man is like a duck – dive but do not sink"*⁴⁰.
(Hoxha, age 70)

This means that the women are vulnerable and have to be careful with their reputation. One mistake and the neighbors would talk about her honor. The male is like a hunter, here associated with a dog which would do anything to get his meal. The women would get consequences of their actions. The males would not get any marks, and therefore associated with a duck that can't sink. We can link this saying with Peristiany's argument that reputation in local communities dominate everyone's life. He means that communities expect women to be chaste, virgins until married and faithful after. One mistake can destroy their honor and their families honor as well. This because women are assumed to be under the control of men (Herr, 1969, p. 89-91). Hoxha further explains that our society is still affected of the perception of others. For instance, many women who end their relationship for the first time, would have problems moving on. So, if any of them end their relationship for the second time, no one would want to have anything with them to do. They would say, she is dumb who have had two husbands, and this would put their family in a bad light. In other words, as Erturk portrays it, family's honor is presumed to be achieved through the conduct of its female members, founded upon their body and sexuality, related to shame and modesty. Family honor is therefore achieved when women act and are obedient towards the males, while they are expected to exercise control over women to ensure their compliance with group norms (Erturk, 2009, p. 64).

³⁸ *"Nderi i një shëpis matet nga nderi i femrave që jetojnë aty"*

³⁹ *"Gruja është mish për qen"*

⁴⁰ *"Mashkulli është si shotan – bjen në ujë dhe nuk laget"*

My informants expressed the importance of one's reputation. It's important that our husband or wife belongs to a respectable family, that they are reliable and have a good reputation. Family's reputation comes before a person's qualities, as we use to say "*the apple cannot fall far from the tree*"⁴¹. This means that the children probably would become like their relatives as they get their primary education at home. According to Peristiany, modesty is desirable in women and cowardice is dishonorable in men. The assessments of these actions by village public opinions lays foundation for families in terms of the honor hierarchy (Herr, 1969, p. 89-91). Honor is and has always had a central importance in our culture, and Bajram explained:

*"Bad things are not told, good things are. If its exaggerated the neighbors will notice"*⁴² (Bajram, age 75)

According to Elders, people can bring shame upon themselves in four different ways. That is if you yell in the yard, if you make your brother angry, if you curse or offense your wife and if you make your neighbor angry. The first and the last mentioned emphasize the public judgements. The reputation is of significance, and is why the persons usually use a 'façade' or 'mask' to protect themselves from being considered dishonored or 'shameless'. This constitutes for them to live fake lifes. The public opinions define the 'good name' of the honorable. The shame only occurs when the damage to honor becomes public (Giardano, 2016, 418-421).

According to KWN, domestic violence is considered as a private issue, and is believed to be a normal part of any relationship (Farnsworth N & Co, 2012, p. 4). The feminist Rao illustrate the concept 'gender blindness' as accepting torture of women because of the manipulation of social factors that are specific to women's daily life's, such as religion, gender ideology and social roles. The sphere of domestic life is at the heart of civil society rather than apart or separate from it (Rao A, 1993, p. 512, 517). This mindset applies for my informants, as Fatime says:

*"The wife is like a rock in the iron. She bears very much for her children, for her face, for her honor and not to embarrass her family."*⁴³ (Fatime, age 50)

⁴¹ "Molla nuk bjen larg prej pemes"

⁴² "Senet e kqija nuk kallxohen, senet e mira kallxohen. Kur teprohen e shohin kojshija"

⁴³ "Gruja është si një gur në heker. Ajo duron shumë për thmit e vet, për ftyr të vet, për nderin e vet dhe për mos korit familjen".

For Fatime, it's important that a woman is morally good. Family is sacred, and the parents are the main ones to show their children the right path. The parents should be good examples for their children. The father is the head of the house and has huge responsibility to take care of his family economically. This means that he has lots of burden to carry. Fatime further says that the wives should understand their husbands. Sometimes they have many problems, and we as women should not make them angrier, but rather understand their needs. Since the husband is responsible for the income of the family, the wife is responsible for the maintenance of the house and raising up the children. The wife's have in addition to behave in a good manner, respect and honor for her husband's name. If she does not do her chores and her obligations as a wife, then the husband has the right to be violent against her – as a tool of discipline. It's interesting how Fatime's description is similar to the gender roles described in the *Kanun*. As also explained by Hoxha and Maksutaj that the women have to be subordinated her husband and that he can punish her if she does not do her obliged tasks as a wife (2017, o. 193-194). Fatime adds in despair that she has done all of the necessary tasks and still she got beaten and unfairly treated by her husband. She tolerated this suffer to not put her family in a bad light. These arguments are also confirmed by my other informants Lule and Kadire.

It's a visible influence that some of the norms of the *Kanun* are internalized in the life experiences of my chosen informants. Even though morality and honor is sacred for them, they all chose to report GBV in hope for a better future for themselves. This was a difficult choice because they were afraid about what others would say. After analyzing the situation many times, they went to the public institutions with many second thoughts. Furthermore, what is noteworthy is that things did not get as the women were hoping for. In the next section I will outlay some of the problems the women encountered in the process from they reported their case, to having a questionable future.

6.3 The current practice of the *Kanun*

Trnavci (2010) argues that the norms of the *Kanun*, still have a strong influence on contemporary Albanians. It maintains values that are still considered unquestionable today. Giving someone a promise (*besa*) is sacredness, and the respect for guests and friends are significant in the Albanian culture (p. 202, 214).

Avdyl Hoxha, the Head of Elders, explains that there are about 40/50 active Elders all over Kosovo. They are all separated in different regions of Kosovo and deal with the regulations and reconciliations of misunderstanding between Albanians. He explains how he came to his position as the Head of Elders:

“The practice of the Kanun is my family’s tradition. Since the 16th century my family has been authorized by Lekë the 3rd to possess the position of the Head of Elders, to practice the unwritten custom rights of Albanians [...] My dad was an elder, he got it as a heritage after his dad again. After my dad got sick, all the Elders of Kosovo had gathered in the men’s room in Junik, to appoint me as the new Head of Elders, as the family heritage indicates”⁴⁴. (Avdyl Hoxha, 70 yeas)

He adds that it’s important to point out that the *Kanun* was and is taught orally. Even the Elders who practice the *Kanun* have not read its content. Out of my informants only Hoxha have read the *Kanun*. This may be due to the fact that he is highly educated, while my other informants barely completed 8th grade. Furthermore, it’s worth explaining that the recruitment process for new Elders, includes a selection of loyal and trustworthy persons where the local community believe in and ask them for advices. The Elders get respected and have authority Kosovo wide (Hoxha & Maksutaj, 2017, p. 461-454).

According to Giordano (2016) when the population does not acknowledge the juridical power, as in Kosovo because of the general knowledge about state corruption, the custom law will almost inevitably maintain its meaningfulness. The outcome of this situation becomes a legal pluralism with parallel, and at times conflicting rules between the states law and custom law. These two systems are incompatible (p. 425).

The Elders claim that the *Kanun* will not vanish, at least not for us. They acknowledge that many of the practices were wrong in the past, and being part of the transition and development in Kosovo they interpret the *Kanun* differently now.

⁴⁴ *”Praktika e Kanunit është në traditën familjare. Prej shekullit të 16-të, familja ime ka qenë e autorizuar nga Leka i 3-të, që të mirret si kryeplak për zbatimet dhe pajtimet zakonore shqiptare të pashkrime... Babi im u ka përgjyur, mas babit vet. Masi u smu baba, ishin mledh krejt përgjyur e Kosovës në odenë e Junikut, për me ma jap mu trashëgimien e punës”*

“The Kanun is unwritten. Every good thing used to come, and still comes into the men’s room. If it’s a good thing, it will get distributed in the whole territory. However, this is decided by the Elders”⁴⁵ (Hysen, age 50)

Elders understand that extended family nowadays only bring internal conflicts. However, they argue that some aspects of the *Kanun* are important to achieve harmony in the society.

“It has happened that people have come to me, in midnight, because they have an urgent problem which they need to solve before the sun raises.”⁴⁶ (Bajram, age 75)

In Kosovo we have the saying *“turn off the fire instead of increasing the flames”⁴⁷* when we want calmness and peace. The Elders claim to have this skill and this is why people tend to trust them rather than other systems which today is claimed to be corrupted. In Hoxha’s experience the use of the *Kanun* have increased. Before the war, the cases were more comprehensive and involved major decisions such as bloods conflicts, land division and separations of extended families.

“Before the war, within a year I had 10 cases. After the war, in average I have two cases a day. 90% of the cases are breakdowns of marriages. Many of the cases are within the Kosovar-Diaspora relation. They want so badly to keep the Albanian traditions and identity, but the two realities clash with each other”⁴⁸ (Avdyl Hoxha, age 70)

This sentence is important. Hoxha, with his position as the Head of the Elders get many requests about reconciliation, and I find it interesting that he mention the Kosovar-Diaspora relation. Even though I did not ask directly, I wonder if the Albanian identity is part of the national request too. Are the Albanian traditions an important drive in the villages and rural areas still vital? I will come back to this point in the analysis part.

Furthermore, Hoxha lays out that the involvement of the international community has brought with them awareness about human rights. Before the war you rarely heard about any divorce or marriage problems. People now realize their rights, and don’t tolerate violence to that extent as

⁴⁵ “*Kanuni ka qen i pashkrum. Gjdo sen i mir u hi ne ode të burrav. Nëse ka qen i mir u shpernda në ter territorin. Mirpo, këta e kan ba pleqt.*”

⁴⁶ “*Ka njerz që vijn në midis nates. Se ata i ka rrok zorri, e duhet me gjet ni zgjidhje para se lind dilli*”.

⁴⁷ “*Me shkym flaken e jo me rit*”

⁴⁸ “*Para luftes, mrena ni viti i kam pas 10 raste. Pas luftes, mesatare mi mar dalin dy në dit. 90% të rasteve i kemi prishje të martesave. Shumica e rasteve kan të bëjn me neve në Kosovë dhe disporen ton. Shum kan dëshir mi majt traditat dhe identitetin ton, amo kto dy kultura nuk përputhen njana me tjetren*”.

before. At the same time, the state does not help. They have written many legal documents, but it does not help if you can bribe the judge. All of my informants agrees with Hoxha on this concern. In a nation that has always suffered under extremely weak and oppressive governments, the custom law has offered the only available source of legalism and stability (Trnavci, 2010, p. 215). The local traditions of settling problems and issues, is a way of co-existence which is agreed upon by everybody. As Hoxha, also repeated from his book, the *Kanun* is part of the Albanian identity. Since we are making a new state, it will not say to forget who we are. And the rule of law should be based on our traditions, customs and the behavior of our people (Hoxha and Maksutaj, 2017, p. 13). Diamond also agrees that the custom law is spontaneous and personal which is commonly known and people trust. He argues that only the advancement of modern law would extinguish custom law (Merry, 1988, p. 875)

Bajram explains that the *Kanun* is still needed in our society. People trust us and come to us for advices. The fact is that we, the people of Kosovo have grown up with the *Kanun*. Even our politicians that rule the country use the *Kanun*. For every imagined issues or problems you may face we can “*put a cork on the bottle*”⁴⁹. This means that we are able to put an ending to your problems which the society will accept and respect. According to Moore, people tend to trust the Elders because social arrangements are often stronger than the new laws. This because custom involve complexes of binding obligations which are already in existence (ibid, p. 880).

*“The Kanun never left and does not leave any trouble afterwards. We do not interpret the Kanun as we used to do. Our mindset has also changed with the development of the time. Today we practice the Kanun, in that way that we met and discuss how to cut the head of the problem. And every part of the problem will respect our decision”*⁵⁰(Bajram, age 75).

This means that the people know that the Elders only want reconciliation and to end the problems which occurs. According to Erturk, the work and experiences of the Elders is considered as the patriarchal power. This is supported in a hidden manner by societal values and institutions. GBV were until recently outside of public scrutiny, because the prioritizing of the family dined the link between gender inequality and violence (2009, p. 61-62).

⁴⁹ “*Me ja ngjit kapakin shishes*”

⁵⁰ “*Kanuni zhurem ska lan mrapa. Kanuni spo zbatohet si perpara. Edhe mentatliteti jon ka ndryshu me kohen. Sot e praktikojm kanunin në at mnyr që mbledhem dhe e diskotojm qysh me ja kput kryt problemit. Dhe gjdo zgjidhje e jona respektohet*”.

6.4 The encounters with public institutions

As stated in the chapter 2, the government incorporated several international human rights standards in the Constitution, including CEDAW, ECHR and OHCHR. However, the practical implementation of these constitutional clauses have rarely been used in Kosovo courts (Farnsworth & Co, 2015, p. 9). The main gap I want to highlight is that, despite of several improvements, statistics still shows us tendencies among representatives of different institutions blaming the victims of their opposed violence by their husbands. They do not promote state laws, but rather their own opinions which still has values based in the patriarchy. By giving the GBV victims advice they try to reconcile families. Reconciling families is not part of their roles of most institutions, and that may weaken their duty to ensure protection or justice. This reflect that some representatives of institutions still lack knowledge regarding their roles and responsibilities at work (ibid, p. 6). According to Merry, it's important to note that the implementation of legal framework is not enough. She argues that the state services have to reflect back this right by supporting victims. Victims are often slow into taking their rights because of a sense of self that is deeply rooted in family, religion and community (Merry, 2003, p. 244-245).

My women informants have experienced and reveals the harsh truth when they took their step towards liberation. They all called the police which came and picked them up when their husbands were not at home. The women did not know about other entities existing, other than the police, which provides services for GBV victims. It was after they arrived at the police station that they got information about their rights and options. KWN in 2012 reports that over 70% have the same attitude, thinking that the police are the only actor providing help to GBV victims. Because my women informants were heavily beaten with marks all over their body, they did not personally get opposing responds from the police, but they heard whisperings about what they have done wrong to be beaten by their husbands. KWN further present some of the responds from police officers on how they deal with GBV cases:

“Men will not be forgiven for the violence but women should know their duties in the family.” (Police officer's respond to KNW research)

“The best thing a woman that faces domestic violence could do is first try to find a common language with her husband. If this doesn't work, try to find help from surroundings such as their family and friends.” (Police officer's respond to KNW research)

“If she has children, the best thing to do is to try to bring them [woman and man]

together if the violence is not too bad, so that the children don't grow up on the streets or with their mother who has no income." (Police officer's respond to KNW research))

This reflects the traditional and social assumption regarding the importance of the family and how women will be 'best off'. These responds also reveal that the police try to reconcile the families through personal advising (ibid, p. 6, 61-62). My women informants told that they got two options at the police station. One to proceed with the process or to try to solve the problem with mediation forms. The last mentioned is usually associated with the Elders, although all my women informants chose to proceed.

The women express happiness when they know that they have been strong and finally found some peace in the safety shelters. But, this will not last forever, as Fatime and Kadire state that their life is at risk when their time at the shelter expires:

*"We live in a country where we have super rights. But they are not real. They are only written on paper and does not count. If we choose to take the super rights, things will get worse for us after six months. This is like our traditional saying: go up I kill you, go down I kill you. I have tolerated my husband long enough, and I fear what's waiting for me when my time here expires"*⁵¹ (Fatime, age 50)

*"This is not the first time I'm here. The family of law knew that my husband used to beat me regularly. But what can they do? He is an adult, and they trust his judgment. Yes, my life it's too bad. After too many bad years, I do not want to give up my life to him. For 30 years I tolerated and suffered a lot"*⁵² (Kadire, age 43)

For both Fatime and Kadire this was the second time they were living in the safety shelters. KWN recognize this issue and reports that women who do not have jobs or no places to go, they go back to the circle of violence, to their husbands. They get re-victimized (ibid, p. 15). Because the safety shelters have a maximum stay for six months they did not have anywhere to go. The women talked about wanting to get jobs but their husbands did not allow that. And Kadire explains:

⁵¹ "Na jetojm me ni shtet ku i kemi te tanat drejtat. Amo nuk jan të verteta. Ato jan vetem të shkume në leter dhe skan asnje efekt. Kur vendosmi me i mar këto drejtat, senet bahen ma keq për neve mas 6-të mujve. Kjo është si thënja jone hyp se të vrava, zhdryp se të vrava. Smuj me duru burrin tem ma, dhe po tutna qka më pret kur duhet me u kthy".

⁵² "Nuk është hera par që jam ktu. Kreit familja burrit e kan dit që burri është tum rreh. Po qka kan mujt me ba ata? Ai është i madh, dhe ata i kan besu fjalve tina. Po e kam jeten shum të keqe. Mas shum vitve që kan shku keq, bile jeten sdu me ja fal. 30 vjet kam duru e mendu."

“The first time I came to the shelter they helped me get a job in a bakery. I was so happy. When my husband found out, he came and threatened the owner because he had employed another person’s wife”⁵³ (Kadire, age 43).

In contrast to this Lule confirms with optimism:

“After I came to the shelter I learned a lot of new things. It’s as if I was a child learning my first step to walk. I have learned about my rights and my possibilities. I want to find a job and not to return to my husband’s family.”⁵⁴ (Lule, age 35)

The obvious concern is that it’s no way out from the circle of violence after their time at the safety shelters expires. And because many women know that they can be re-victimized they choose to not report GBV cases.

Through job-related attendances at social centers, I observed that social worker advice their victims to think about the children before they think about them self. When I told my women informants about this, they all said that their children were adults and that they did not get this advice, expect from Kadire that had been advised in that way five years ago when she first reported a GBV case. Then my children were younger and needed their mother, as she said. Additionally, because the women had adult children, or as in Lule’s case no children, I wonder if this is the reason why they did not encounter other problems reporting their case. From my own experiences, joint with the KWN report from 2015, illustrates that the state institutions and society in general continues to blame the victim of GBV crimes. Different statements from the representatives of institutions show that they still lack knowledge about the Law, particularly with regard to who can request protection orders. This is linked with our traditional gender norms that contribute to a tolerating environment for violence to continue. And therefore they are not able to fulfill their legal responsibilities to protect persons who have suffered from GBV (Farnsworth & Co, 2015, p. 9, 11, 60).

Nevertheless, the interviews with my women informants gave me an understanding that they do not have knowledge about their rights or possibilities. This is linked with Okin’s theory that oppression is internalized in their life’s and they do not know what they are entitled to as human

⁵³ *“Heren e par kur kam ardh, me kan ndihmu me gjet ni pun me ni furr. Jam kan shum e lumter. Kur e murr vesh burri jem, erdh dhe e kërcnoj pronarin pse me ka shti në pun gruen e huj”.*

⁵⁴ *“Une masi kam ardh ktu në strehimore kam msu shum sene. Sikur me pas kan një thmi që ja nis mi mar hapat e par. Kam msu për drejtat dhe mundesit e mija. Po du me gjet ni pun dhe mos mu kthy te burri.”*

beings (Herr, 2004, p. 86). The women reported the GBV crimes because they could not tolerate the suffering anymore. They live their way of life based on their experiences and cultural surroundings. As mentioned above, a common way to resolve relationships and marriage problems in Kosovo, which my women informants did not choose is through the Elders.

6.5 The Elders managing GBV cases

As described above, my women informants approached the public institutions and not the Elders. Anyhow, the Elders are active and their work make other women accept GBV and prevent them from reporting the cases to the police. KWN reports indicates that 67% think that it's still shameful to admit GBV because of social constraints. Even though this number have decreased from year 2008 (from 82%), in other aspect, people appear to have become more conservative. For example, 21% of Kosovars still believe that it's alright for a husband to hit his wife, compared to 18,7 % in 2008 (Farnsworth N & Co, 2015, p. 5-6).

All of the Elders stated pleased that they are able to reconnect marriages which are broken. They say that it's not good to report everything because your family will be destroyed. Bajram says:

*"In many cases the husband regrets his violent actions. But if the women report to the police everyone in the village will know. They will say what kind of women does he have reporting his private behavior to the police. This will make the husband become angrier. Therefore, its best to come to me before contacting the police and I reconnect them again, for the sake of the children because they need their mother"*⁵⁵ (Bajram, age 75).

Bajram clarifies that marriages nowadays comes quickly to an end. They don't have patience at all. We cannot fight for everything, we have to tolerate something, especially if we don't want to ruin the family. Bajram further explains:

*"In my personal opinion, violence should not be private. Extreme violence is not a good thing, and if that happens, the women should tell her parents. Then her parents can talk with the parents of her husband. They can come to us, and we can find a solution before their problem becomes public"*⁵⁶ (Bajram, age 75).

⁵⁵ "Shumicen e rasteve burri i bjen pishman. E nëse e raporton gruja rastin në polici, kreit fshati e merr vesh, Dhe thojn qfar grue paska filani që e ka thirr policien. Për këtë burri nervozohet ma shum. Perqata para se me shku te polica është ma mir me ardh te une dhe i rikthej. Për hater të thmive, se ata kan nevoj për nanen e vet".

⁵⁶ "Për mendimin tem personal, dhunen sduhet me mbajt në privatsi. Dhuna madhe nuk është e mir. E nëse ndodh gruja duhet mi lajmru prind e vet, për që ata me bisedu me prindit e burrit. Mujn me ardh me bisedu me neve, dhe na e gjejm një zgjidhje para se me dal publik".

With this saying, for Bajram it's important that conflicts within a marriage is summed and resolved within the collective, including the parents and the Elders. He adds that the international community generated individualism, which is not well connected with our culture. In Douzinas understating he describe the collectivism as values that are context-bound. The commonality of tradition, history, culture and the past are inescapable and weight in determining present possibilities and understating the self (Douzinas, 2013, p. 58-59)

The international actors have realized plenty of human rights projects. The consequences which follow with these projects are huge and for many not bearable. Our courts which have implemented those new rights do not imagine the costs. For example:

*“If a woman asks for her property rights then she will lose here fathers family. Our tradition indicates this. If I give my sister her part of my father’s property, then her husband can come and work in that land. I would allow that, but my neighbors would not accept that. This is because we share the same land line. Then they would not let their women go out in the yard because an external man can see them. Then misunderstandings can occur”.*⁵⁷ (Hoxha, age 70).

Hoxha further says that it's a trend for girls/ women to ask for property rights. 1 of 100 ask for property rights, and the law will back them up. The consequences are that it would be a split in the family, especially in rural areas. An important factor is that Albanian men are jealous men. They don't like external men to look at their women. They would give the fault to the women, and then violence would occur. Both girls and boys have the same value, but because our society is built up as a community with relatedness-system, it has to stay like that for it to continue as a harmony. Still, many legal courts advice people to contact me in the property matter. I advise girls/ women who get property inheritance to sell the property to their brothers. This is to protect the harmony in the local community, and prevent unnecessary violence in the future. Jealousy in fact can be a significant cause to the limited rights of women. This mentality is still frequent in our society. UNICEF's report support Hoxha's description about jealousy fostering more control on women (Laurenti R, 2006, p. 50).

All the Elders say that the *Kanun* is summoned by the people. They continue by saying as our Albanian hospitality demands, we have to receive the visitors in the best possible way. We

⁵⁷ *“Nëse një femer e mer hisen e hup familien e babes. Tradita po i ban këto. Nëse une ja jap motres tem hisen, vjen dhandri me punu në qat tok. Une e lejoj, amo sma lejojn kojshia. Kojshija se lejojn se jan në megj. Skan qef me qit guen në obor e me kqyr burrat e huj. Fillon mosmarveshja”.*

cannot turn them back, if they come to us. As long as somebody comes to us, we will help and advise them in the way we can. They conclude by saying, if the people want us to practice the *Kanun* we will, and if they are open to other suggestions we will also be at their service. But most important, we will not send anybody back because they count on us.

In the first part of this chapter, I have presented my findings and placed them in the context of relevant theoretical perspectives. In the next section I will discuss my findings in light of theories that are concerned with GBV as a cultural cause and legal pluralism.

6.6 Legal pluralism and human rights

Every society is legally plural. Pospisil in Merry (1988) defines legal pluralism as a situation in which two or more legal systems coexist in the same social field. Since Kosovo is operating with two laws this description about legal pluralism suits, and the term ‘pluralism’ will be used. Furthermore, Pospisil explain that every functioning unit, such as family, community or political confederation in a society has its own legal system which is necessarily different in some respects from those of the other units (p .870). My literature review and the responds from the Elders shows that the Albanian’s has developed a custom law, protecting themselves from external occupations in a response to preserve their own identity. The custom law regulates the Albanian’s daily life matters including family, clan, friendship, banner and fatherland. This law was a product which occurred over several generations, where formal rational law was imposed by external conquests. The custom became shaped to some degree by the conquests, but the last decade in Kosovo shows the most visible change of the practice of the *Kanun* which was imposed from the international community.

Even though some theories claim that custom law can become part of the state law, through changing its natural fundamentality. Meaning that custom law should support state law, in that way that it transforms the elements of custom that is appropriate into its own image and likeness (p. 883). The responds from the Elders reflected this theory, and they said that in order for the state law to function successfully it should include the traditions and customs of our people. This because cultural identity is important for human belonging and development. If we implement and practice the western culture of individuality, then we would lose our identity because we are collective people. Ignatieff argues that in the completion between global and local values the local authorities are bound to have more influence in shaping the ordinary virtues (Ignatieff, 2017, p. 6). Furthermore, according to the Elders and Parekh (2006) culture

is a historically created system, whereas each place has different culture. The cultures provide their members belonging to a group and beliefs to their particular way of life. Therefore, as long as it does not harm its member, the culture deserve respect (p. 156).

From my observation, implementing the custom in state law do not correspond with the current practice of the *Kanun* in Kosovo. Instead the *Kanun* is a parallel law of the state law. Official statements from the state consider the custom law as illegal. However, Giordano claims that the custom law will maintain its meaningfulness as long as the population still take use of it (2016, p. 425). Furthermore, Moore's model reflects the dialectic relation between state law and customary law. New laws are inserted upon ongoing social arrangements in which there are complexes of binding obligations already in existence. New legislation is passed with the intention of changing the ongoing social arrangements in specified ways. In the Kosovo case towards universality of human rights. Places with social orders get a sense of vulnerability to new domination structures far outside their immediate worlds, and of the ways implied and unrecognized systems of control are embedded in their day-to-day social lives. The social arrangements are often more effectively stronger than the new laws (Merry, 1988, p. 880). This may be the reason why the *Kanun* is still practiced today.

Because the international community has a lot of influence in Kosovo, all of proposed law document get signed. Formally all human rights laws are in existence in Kosovo, but the practice is lacking. The Elders asserted that human rights are a product of the West, which do not function in our collective society. They critique these human rights which ignores key differences in culture, class, experience and visions of a just society. They uphold that human beings around the world have different needs and experiences, where some people are culturally collective people, and therefore cannot assert rights of the individual as a private, autonomous being. (Collins & Co, 2010, p. 307). My women informants reflected ignorance towards the knowledge about their rights. They were grown up in isolated areas and lived a way of life that is common in those areas, influenced by the social norms of the *Kanun*.

Furthermore, human rights are often equated with processes of westernization, a reproduction of a false hierarchy of 'the west' and 'the rest' and the justification of imposing western-defines agendas, especially in less powerful non-western countries in the name of promoting rights. Transnational feminists argue that the west uses women's human rights discourse to legitimize neo-imperialist ideologies and actions. Merry captures how participants in this transnational

society live in two places at the same time, navigating endlessly between them. This because norms, values and cultural practices has to be understood from the local spaces within the context. She further adds that the west is inaccessible to grassroots organizers and associated more with the top-down imposition of policy than with participatory development (Reilly, 2011, p. 72). The liberal domain, include gender inequalities in that way that they are visible and divided between the public-private sphere. This means that any forms of abuse in the home and in public life are thereby eclipsed from view and are not understood as serious criminal violations. The reason behind is that it only permits state-sponsored violations of civil and political rights to come into focus as real human rights issues (ibid, p. 64).

My findings about plural laws in Kosovo are visible. I can also observe that GBV is linked with the social norms of the *Kanun*, portraying the man as the head of the house. This make the wife inferior in regard to his decisions. However, the findings do not show a complete list, but emphasizes what is of importance in the lives of women in rural areas. The core concept of the *Kanun*, such as honor, community and hospitality are still appreciated and valued. The extent of the practice of the *Kanun* has increased after the war regarding breakdowns of marriages. This in contrast was not common to divorce before the war. Men could actually have a second or third wife, as long as he was able to take care of them economically (Bajram, active Elder). Today's practice of the *Kanun* discriminate women, in matter where they allow GBV to continue as long as it is bearable, in the name of culture and privacy. I will discuss this more openly in the next section.

6.7 Family, privacy and human rights

According to Rao and Hossain it's difficult to address GBV because it occurs in the private sphere. The family is defined as the woman's realm, and therefore it would be problematic in cases of domestic violence because 'the family' will be used against abused woman to assign responsibility and blame (Rao A, 1993, p. 518). Rights within the family are determined by personal laws, based on religious traditions, customs and practices. This foster discrimination between gender regarding their rights to marriage, divorce, maintenance, custody, inherence and more. This kind of discrimination on women's honor and personal laws hinder women's participation in political and public life, which contributes to continuing GBV (Hossain S, 1994, p. 465, 473). All my women informants talked about the importance of caring for their families and expressed frustration at the high degree of control and violence they experienced. They all agreed that the violence most often happened within the family and can included physical,

sexual and psychological abuse. With this we understand that GBV is deeply embedded in systems of kinship, religion, warfare and nationalism. GBV is socially constructed behavior that contributes to human insecurity, in particular and results in vulnerabilities that impact all members of society (Standish, 2014, p. 112). Okin furthermore state that oppressed people have often internalized their oppression so well that they have no sense of what they are justly entitled to as human beings. They rationalize the cruelties by cultural beliefs and transmit the same beliefs to their own children. In this way they are suffering from ‘false-consciousness’ about the reality, and Okin adds that outsiders can often be better analyst and critics of social justice than those who live within the relevant culture (Herr, 2004, p. 86).

I understand that the Albanian culture make it difficult for the women to challenge the existence of strong gender roles. The Elders revealed a structured patriarchal dominance, where men grow up being taught that they should be responsible for their wives, sisters and parents. My women informant reflected growing up in an oppressive environment with preconceived ideas of roles and behaviors. Here, I also want to note that they value the traditional norms, such as being subordinate to their fathers and husbands. This is a sign of respect and honoring their names. As Rao and Hossain stated above, my informants consider the family sacred, which have a central importance in their lives. The following examples on how the informants described it:

“Our parents gave us life, and we have to repay it with good actions”⁵⁸; (Lule, age 35)

“Alone we are no one, we live for our family”⁵⁹; (Fatime, age 50)

“We have to bear and do everything we can for our children and the family”⁶⁰ (Kadire, age 43)

The Albanian culture is based on extended families, where especially boys get all of the resources because they will take care of the family, while the girl will get married away (Hoxha, Head of Elders). The Albanians are known to having big houses, because often several generations live together under one roof. The younger generations consider it as their duty to take care of the elderly. The oldest man in the family is usually the head of the house, deciding on all pending or ongoing family matters. These decisions are respected by all members of the

⁵⁸ *“Prindt na kan ba, dhe na duhet me ja kthy met mir”*

⁵⁹ *“Vet kerkushi sjem, na jetojm per familjen ton”*

⁶⁰ *“Duhet me duru dhe me ba gjithqka për thmit dhe familjen ton”*

family (Trnavci, 2010, p. 213). Four of my informants live in villages and still live as described by Hoxha and Trnavci. They explained that the only reason to divide the family, is because they have become to many family members that they had to build another house. This also portrays the reality of local communities in Kosovo, where it is considered as degrading to move away from the village. As Bajram explained:

“Leaving the village, is worse than killing someone”⁶¹ (Bajram, age 75).

What Bajram means with this saying is that we are from the places we come from, and we should be proud of it. He further explains that in old days, only the decisions from the Elders could forcibly move somebody from their villages. Those persons would be mocked by their origin village because they did something unacceptably and shameful threatening the harmony in the local community. The point I want to show by this saying, is that more than 60% of the population in Kosovo live in rural areas.⁶² This means that the life of women in villages illustrate the ‘housewife’ in extended families. Even though my informants, being adult from age 35-75, have experienced the transition of Kosovo (before the war and after), and being part of the development changes in Kosovo, they still have the mentality of patriarchy. I can sense that the described gender roles in the *Kanun*, are very strong embodied in their way of thinking and the Albanian culture to the present date. The concepts such as enduring, good manners, love, willingness and happiness seems to have relevance only when it comes to the female members in the Albanian culture. I want to link this with Hoxha’s description:

*“Our girls are sacred, because a family is measured by the morality of the female members. If they do something bad, we’ll be known for bad, and everyone would taunt us”.*⁶³ (Hoxha, Head of Elders)

Hoxha adds that it’s important that we have an honorable and respectable family. This corresponds with Bajram’s descriptions regarding asking around about one family’s reputation before one choose spouse. If one’s future spouse belongs to a respectable family, then that’s more important than one personal qualities (Bajram, active Elder).

⁶¹ “Me lshu vendin është më keq se me vra njerin”

⁶² Data from 2011, from Kosovo Agency of Statistics.

⁶³ “Qikat e tona janë të shenjta, se moraliteti i familjes është në qika. Nëse qika bëhet e keqe na kish qit zanin e zi e krejt kishin kesh me neve”.

KWN reports shows that GBV is still an issue in the society of Kosovo. It has improved from earlier years, and women are reporting GBV cases more often (see table 2, p. 32). Despite of this, in other areas relating to economic and psychological violence Kosovars seem to have become slightly more conservative. Perceptions about unemployment, bad economic situation, alcohol, insufficient education, disagreements and culture contribute to GBV remaining fairly widespread (Farnsworth & Co, 2015, p. 30).

6.8 Understanding of cultural rights and identity

According to Parekh, cultures gives us coherence to our lives, gives us the resources to make sense of the world, stabilize our personality and so on. Its values act as our moral compass and guide us through life. The loyalty to culture is important and we have a duty to preserve and pass on to succeeding generation what we think valuable in it and defend it against its perverse misrepresentations (2006, p. 158-160). In another manner, feminists' theory illustrate that cultural relativism rarely benefit women. Cultures perpetuate patriarchal structures that subjugate their women. In other words, culture traps women in 'the home' by manipulating of social factors which are specific to women's daily lives (Rao A, 1993, p. 512). Similarly, Okin agrees that the liberal Western culture have advanced themselves from its patriarchal past, and take distances from multicultural privileges in the public realm. This because it will affect the women in a negative way, as it is doing so in the private sphere. Supporting group rights will benefit the patriarchy since many of their customs controls women and render them, especially sexually and reproductively, servile to men's desire and interest. Okin adds that committed outsiders can often be better analysts and critics of social injustice than those who live within the relevant culture (Herr, 2004, p. 82, 84, 86).

However, new directions in feminist about human rights argues that it does not matter in advancing gender equality on conventions and the impact they have in local and national cultures. The most important thing is rather demanding the state to respond to their needs. Because individual and collective rights are not mutually exclusive, and women's need can vary from culture to culture. We have many examples where women as a group have appealed to human rights on the basis of collective justice. (Collins & Co, 2010, p. 305, 309). Some groups argue for the importance of sustaining their own 'illiberal' cultures. Herr (2004) point out the importance to listening to the voices of the women wanting to preserve their 'illegal' cultures, because from their point of view can be affirming and positive. Herr talks specifically about racial ethnic women who defend their own non-liberal cultural identity against outside critiques.

(p.74, 79-80). It's important to understand that the meaning of cultural practice must be examined in their cultural and historical context. If put in context, certain custom that may seem to an outsider as inveterately patriarchal may harbor subtle and complex implication, some of which may even be women-friendly (ibid, p. 84). The responds from my women informants seems to have this feeling, but of Albanian traditional and cultural identity. They expressed the view that their traditions gave them sense of rootedness and identity. They said: we are Albanians and can never escape from who we are.

Cultural diversity creates a rich, varied and aesthetically pleasing and stimulating world. Cultures can provide progress, through encouraging a healthy competition between different systems of ideas and ways of life and facilitates the emergence of new truths. Or it can neglect, marginalizes and suppress others because of the conflicting values opposing each other (Parekh, 2006, p. 166-167). My informants, both the Elders and the women reflect a hinder to step out of their culture, they remain imprisoned within it. They imagine it to be the only natural self-evident way to understand and organize human life. However rich cultures are, none of them embodies all that is valuable in human life and develops the full range of human possibilities. Different cultures thus correct and complement each other, expand each other's horizon of thought and alert each other to new forms of human fulfillment (ibid).

7. CONCLUSION

My chosen topic about “*Women’s Rights Between Competing Law’s in Kosovo*” reflects women’s reality in rural areas of Kosovo. Women are literally caught in-between two systems of laws. On one side, they have their cultural habits, customs and traditions. Women’s moral and ascribed chores are measured within the framework of honor and shame, values which are codified in the *Kanun*. GBV is in this sphere accepted and tolerated as a cultural behavior. On the other side, we have the national law representing a democratic Kosovo, with a sets of rules implemented from the international community. The national law reflects the universal human rights and do not tolerate any type of GBV towards women.

Referring to my research questions, I wanted to understand the sphere and situation between the two different law, and how women in Kosovo relate to them? At the same time, I was concerned about the factors affecting governmental GBV mechanisms to work successfully.

The sphere which contain two systems of laws in Kosovo are in contradiction to each other. They both exist in Kosovo, and it’s the women who are caught in a difficult and complex situation because this causes conflict between self-preservation and fulfilling their identities as wives, mother and members of their families and communities. My observation and my findings already shows that GBV is tolerated in a high scale by women in rural areas. The responds from my informants gave me a clear understanding about the importance of cultural identity and belonging, which is considered above the importance of individuals rights. This sense of cultural identity will in help people submerge the ‘I’ into the ‘we’. This because common history, traditions and the past are inescapable and weight in determining the present (Parekh, 2006, p. 143-144; Douzinas, 2013, p. 59). Furthermore, the feminists Okin and Standish, argues about the oppression being internalized in women lives, and has no sense of what are actually their rights. Such violence is embedded in social norms and cultural factors (Herr, 2004, p. 86; Standish, 2014, p. 111-112). I found this experiences also in my informants.

However, the dilemma arises when GBV becomes life-threatening and women take a choice to report the case to the police. After taking this step, the police usually give the women two choices. To reach out to mediators for advice, or to proceed with the case. Whichever they choose, because they are part of a society where everyone knows everyone, people would call them dishonored where they have brought shame on themselves and their families. Anyhow,

when they choose the mediator, associated with the Elders, they reconcile and go back to their husbands. Women who reconcile usually ends up being re-victimized by going back to the circle of violence. If these women report a case again, they would be considered as disreputable and not worthy for the police to take their case seriously (Merry, 2003, p. 245). On the other side, if the women are strong and complete the process to achieving safety in shelter houses, they will be safe and taken care of for a maximum time of six months. After these six month, the state does not accommodate the laws they have enshrined in the Constitution. This leads the vulnerable women to have few choices for them self. Some reflect the option to go back to their parent's family, but they are considered shameful, a burden and an expense. Finding a job is also problematic. Its general knowledge the labour market is influenced by the same values, and few companies would employ people which are considered dishonorable by the society. This leaves women no choice than to go back to their husbands. The atmosphere would most likely be worse than what they tried to escape from, and can be life threatening. This is the concern I want to stress. Since the society of Kosovo is constructed as it is, the women really do not have a way out of GBV, and they are not long-term protected by the state who promotes universal human rights.

As I chose to interview both Elders and victims of GBV I managed to illustrate two contrasting perspectives which represent an important factor in current gender mattes. The collected empirical data provides us with a cultural reality and portrays an understanding of the phenomena. Based on this, I can conclude that people from rural areas are still influenced by the *Kanun*. My findings explain that women are in a clash of universal rights implemented and the cultural relativism constructed over time. This means that they are part of a multiculturalism approach, where the western model in Kosovo do not have a long-term solution for GBV victims. As explained by Moore and Ignatieff, the social norms are often stronger than the new laws, where local authorities are bound to have more influence in shaping the ordinary virtues. (Merry, 1988, p. 870; Ignatieff, 2017, p. 6).

Furthermore, I want to stress that even though the cultural structure in Kosovo allows GBV to take place, the Kosovo government has a duty to progressively work towards meaningful realization of the gender laws they have implemented. Here, I want to emphasize Merry who underlines the importance of the public services behind these legal frameworks. As she argues that the public institutions need to reflect the human rights ideals because battered woman are

often slow to take on rights and are usually pressured by kin to feel that she is a bad wife if she reports her husband for violence (Merry, 2003, p. 245).

The EU is a roadmap for Kosovo, and the government is aiming for more advanced approaches and not back to the *Kanun*. However, there are social challenges towards this reality and implementation takes time. Upon this, I want to supplement that Kosovo needs a contextual solution, an alternative that works for the people and their context. A solution can be awareness on differentiation the institutional sphere and the private sphere. It's important that all state services promote and reflect state laws, and not their own personal view about GBV. Furthermore, for people to understand that GBV is a serious health matter it's significant to report GBV cases as much as possible. To do this, it's important to raise awareness with campaigns and training about human rights in rural areas.

Additionally, as Trnavci, Hoxha & Maksutaj and Diamond describes, the *Kanun* will gradually be supplanted by the more modern and publicly administrated laws. The new rule of law can only be succeeding if it is founded on the positive concept of community, good faith, hospitality and reciprocity which are the heart of the Albanian *Kanun* (Trnavci, 2010, p. 215; Hoxha & Maksutaj, 2017, p. 13-15; Merry, 1998, p. 875). At the same time, Pritchard's findings about that young Albanians do not identify themselves with the *Kanun*. They use it as a historical importance to the nation, and they would with time reflect this to coming generations (Pritchard, 2016, p. 481).

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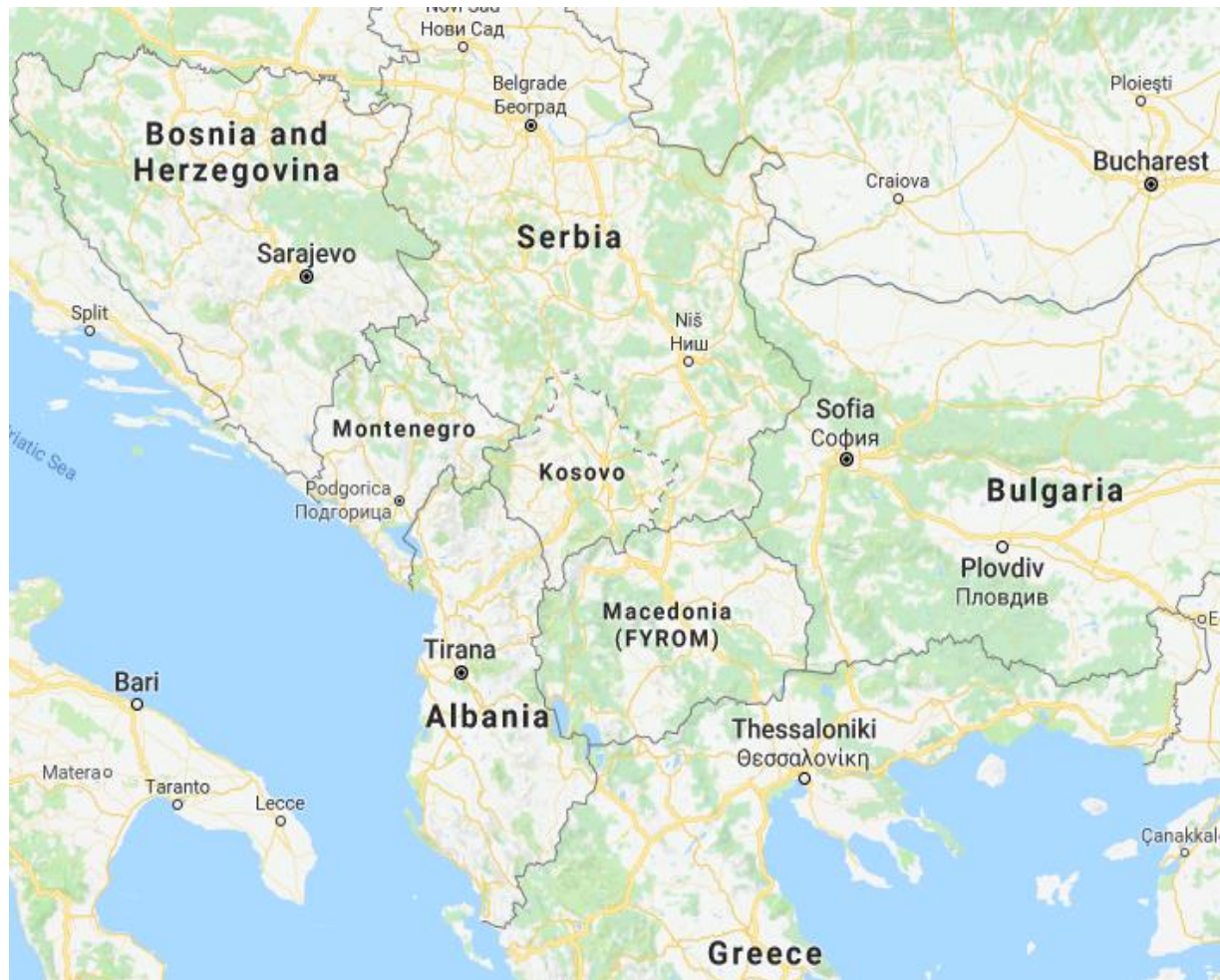
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APPENDICES

APPENDIX 1: Map of Kosovo



Source: Google Maps, Kosovo

(<https://www.google.com/maps/@42.6504378,21.246398,8.21z>)

APPENDIX 2: Interview schedules

Interviewing the Elders about the *Kanun*'s relevance in today's society in Kosovo

- Background information about the researcher and the one's being interviewed.

General questions:

1. Do you still work as an Elder?
 - Do you use the *Kanun* as the main reference, or more recent legal mediation form?
 - How often do people approach you about your service as an Elder?
2. Are women's rights protected by the *Kanun*?
 - If yes, in which way?
 - Do you have any case where you have acted with exception from the *Kanun*?
3. Is domestic violence a result of *Kanun*'s social norms?
 - If not, where is the source of the violence?
4. Should violence be reported to public institutions, or kept in the private sphere?
 - If yes for private sphere, why?
 - Do public institutions (police) take reported cases seriously?
5. Are you concerned about the women's rights in Kosovo?
 - If yes, what do you suggest to do in preventing future violence?

Interviewing survivors of GBV in Kosovo

- Background information about the researcher and the one's being interviewed.

General questions:

1. What do you think is the main reason/ source of GBV in Kosovo?
 - Why do you think this way?
 - Do you think that the *Kanun* protects women's rights in any way? If yes, explain?
 - Do you have any previous experience of violence?
2. Which are the most ordinary GBV forms in Kosovo (at home, school, work, etc).
3. When is violence acceptable?
 - Why is it acceptable?
 - What is the role of the women?
4. Where is the limit of GBV forms?
 - What kind of rights do women have?
5. Do you have knowledge about any state mechanisms who protects GBV victims?

- How is the procedure in reporting a GBV case?
 - Do they function? Do you have any previous experience?
6. Is the use of the Kanun increasing, having in mind the general knowledge that the state is corrupted?
- When do the *Kanun* recognize violence and take a decision based on it?
7. Are you concerned about women's rights in Kosovo?
- If yes, what do you suggest to do in preventing future violence?