The Evolution of Women's Property Rights in Albania

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Abstract

The status of Albanian women in relation to property rights has undergone significant transformations, evolving from the era of customary law to the modern democratic principles of equality among citizens. Historically, within the traditional Albanian family, legal capacity was unequally distributed in a patriarchal system, reflecting pronounced gender disparities. Men, regardless of age, were entitled to inheritance, whereas women were largely excluded from this institution in both their family of origin and their husband's family (Pupuvoci, n.d., pp. 70–80). Property rights are recognized as fundamental human rights, enshrined in Article 1 of Protocol No. 1 of the European Convention on Human Rights (ECHR) and Article 41 of the Constitution of the Republic of Albania. These rights are considered primary, inherent to the individual from birth, and essential for ensuring social and economic equality. In contemporary legal frameworks, the status of women's property rights is recognized as fully equivalent to that of men. Gender equality in property need policy, interdisciplinary oversight. The effective implementation of this rights requires not only legal reform, but also the removal of administrative barriers, increased public awareness, and regular monitoring of gender disaggregated property statistic to ensure practical and equitable access.

Keywords: *Property, Evolution, Legal Rights, Women*

1. Introduction

1.1 General Presentation

This paper seeks to explore the historical, legal, and social development of women's property rights in Albania. The ability of Albanian women to own, inherit, transfer, and manage property represents a critical measure of gender equality and social empowerment. Historically, women's access to property was highly constrained within the framework of customary law, which favored male heirs and maintained patriarchal family structures (Pupuvoci, n.d., pp. 70–80).

Over time, Albanian law evolved to establish formal legal equality in property rights. Legislative reforms, particularly during the 20th century, aimed to provide women with equal opportunities to exercise ownership and inheritance rights. Despite these legal guarantees, contemporary Albanian women continue to face practical challenges in fully exercising these rights, reflecting persistent socio-cultural norms and structural barriers (Author, Year).

By tracing these historical and legal transformations, this study highlights both the progress achieved in ensuring gender equality in property rights and the remaining obstacles that hinder women's full realization of these rights in practice.

1.2 Significance of the Study

The completion of this study holds particular significance, as it explicitly integrates legal, social, and economic dimensions.

Firstly, the study addresses gender equality as a fundamental human right, closely linked to property rights as a constitutional entitlement. Although the Republic of Albania has ratified international conventions aimed at promoting gender equality and human rights, in practice, numerous challenges and obstacles persist, particularly in regions where patriarchal norms continue to be applied, often informally rather than through codified law.

Secondly, the study is significant because it provides a detailed historical and legal analysis of the development of Albanian women's rights, with a special focus on their ability to exercise property ownership.

Thirdly, this study aims to foster critical thinking and contribute to the development of effective policies for women's empowerment. It seeks to encourage women to assert the rights they are entitled to, while promoting the practical enforcement of these rights in daily life.

1.3 Aim and Objectives of the Study

The aim of this study is to analyze:

1. The evolution of property rights for Albanian women over time.
2. The challenges Albanian women have faced in exercising their property rights.
3. Recommendations for improving women's access to property ownership.

2. Methodology

This study adopts a qualitative research approach, incorporating historical, legal, and sociological elements. The methods employed include:

1. **Legal Analysis** – This involves the examination of laws, conventions, international acts, and policy documents relevant to women's property rights.
2. **Comparative Analysis** – This method connects historical periods with the evolution of the law, considering both the need to ratify international conventions promoting gender equality and the broader societal development.

2.1 Hypotheses

1. The influence of customary law and patriarchal norms constitutes a significant obstacle to the exercise of property rights by Albanian women, particularly in rural areas.
2. The lack of legal information and access to legal assistance negatively affects women's ability to claim or defend their property rights.
3. Property rights have a significant impact on women's empowerment and economic independence.

3. Structure of the Study

This study will be organized into three chapters as follows:

In the first chapter, the theoretical and conceptual framework of property and property rights will be addressed.

In the second chapter, the study will examine the importance of customary law in this process, the role of women, and the evolution of property rights throughout different historical periods up to the present day.

In the third chapter, contemporary legislation will be analyzed, including the Constitution of the Republic of Albania and the Civil Code, focusing on the protections they provide for property rights and for women. This chapter will also discuss the challenges that women have faced in exercising their rights throughout this process.

Finally, the study will conclude with findings on the topic and provide recommendations considered valuable for the

advancement of women's property rights in Albania.

4. Theoretical and Conceptual Framework of Property

Property rights are among the fundamental human rights and constitute a central element of the legal and economic system of any society. They encompass the right to own, use, dispose of, and inherit material or immaterial assets in accordance with the law. As one of the most important institutions of civil law, property plays a crucial role in ensuring the free exercise of human rights in relation to assets.

Property rights in Albania have a long and well-established tradition that predates the formation of the modern state. In the Albanian language, property is defined as: "a feminine noun; the right to own property; being someone's property: ownership over land; forms of ownership."

During the era of customary law, best exemplified by the Kanun of Lekë Dukagjini and other regional customary codes, land and other assets were closely tied to clan and family structures. Property in this period was often collective, meaning family or clan assets were inherited according to the male line.

With the establishment of the Albanian state, and particularly during the reign of King Ahmet Zogu (1928–1939), a process of modernization of property rights began. This process aimed to consolidate private property and unify civil legislation. The Civil Code of 1929, drafted based on Austrian and Italian models, formalized property rights as a legally protected institution, clearly defined by law. This period represents an important step in the transition from customary property regulation to a codified and standardized legal system aligned with European civil law principles.

According to Article 149 of the Civil Code of the Republic of Albania:

"Ownership is the right that grants its holder the authority to use, exploit, and exclude others from using it."

This principle represents the fundamental concept of property rights in the Republic of Albania. It emphasizes two essential powers of the owner: disposal and use, meaning that ownership is not limited to mere possession. It is a legally protected right, irrespective of gender, forming the basis of real rights.

In terms of the concept of property, we distinguish:

- Immovable property: land, residential buildings, agricultural land, etc.
- Movable property: equipment, tools, vehicles, etc.
- Intellectual property**:** copyrights, patents, trademarks, etc.

International Jurisprudence on Property Rights

International jurisprudence addresses property rights not only in relation to material assets but also regarding certain rights and interests.

According to Article 17 of the Universal Declaration of Human Rights**:**

- *"Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property."*

This legal provision protects property as one of the fundamental human rights, prohibiting any arbitrary deprivation of property and property rights. An individual may be the sole owner or a co-owner of an asset or property.

Any deprivation of property must be regulated by law, carried out for the public interest, and accompanied by fair compensation.

Similarly, the European Convention on Human Rights (Protocol 1, Article 1) states:

- *"Every natural or legal person is entitled to the peaceful enjoyment of his possessions."*

This legal provision safeguards the fundamental right to own and use property.

5. Women and Inheritance in Albanian Customary and Historical Legal Systems

5.1 Inheritance and Gender Roles in the Kanun of Luma, the Kanun of Skanderbeg, and the Kanun of Lekë Dukagjini

The study of the provisions of the Kanun of Luma (Articles 1492–1493) reveals a traditional concept of Albanian customary law regarding inheritance and gender roles within the family. According to these norms, unmarried daughters were granted only the right to reside in their father's property after his death but were excluded from participating in the inheritance of the estate. This arrangement reflected a clear patriarchal family structure, in which property rights were considered an exclusive attribute of the male line.

However, the Kanun of Luma represents a moderate deviation from this principle compared to other Albanian

customary codes. In cases where the testator had no sons but only married daughters, these daughters could inherit as second-line heirs. This provision indicates a limited step toward recognizing women's property rights, positioning the Kanun of Luma as one of the more flexible sources of Albanian customary law regarding inheritance issues (Kanuni i Lumës, 19th century).

On the other hand, the Kanun of Skanderbeg reinforces the patriarchal nature of the customary legal system by denying women the right to dispose of the *"selem"*, defined as the property she brought from her parental family into the marriage. Although originally belonging to the woman, this property was considered part of the male family estate and was inherited only by sons. This arrangement excluded women from any form of property autonomy, reducing their status to a legally dependent figure (Kanuni i Skënderbeut, 19th century).

Similarly, the Kanun of Lekë Dukagjini**,** which constitutes the most comprehensive compilation of customary norms in northern medieval Albania, excludes women from legal capacity in property-related matters. Women could only borrow everyday consumable items, which are replaceable, but they were not permitted to enter into sales or exchange contracts—even for these items—without the permission of the head of the household. This restriction clearly illustrates the patriarchal structure of Albanian customary law, where women were viewed as legally dependent subjects with limited property and contractual rights.

Regarding other members of the household, or the so-called *"gjindja e shpis"* (household members) under Article 25, they could not become *"dorzânë"* (authorized agents) without the permission of the head of the household, nor could they sell, buy, or exchange property. In the village context: 1) the head of the household was responsible for any damage caused by the household members. Article 24, titled *"Powers of the Household Members"*, further emphasizes that the household members had authority only under the supervision of the head: "…even a single kernel could not be sold without the head of the household's consent."

Regarding inheritance, Article 88 of the Kanun of Lekë Dukagjini stipulates that inheritance was recognized for sons and not daughters; moreover, only sons born within marriage, and their male descendants, could inherit (Kanuni i Lekë Dukagjinit, 1933).

Overall, a comparison among these three sources of Albanian customary law indicates that, although in some cases (such as the Kanun of Luma) there are limited elements of women's inclusion in property matters, Albanian customary law remains fundamentally patriarchal and exclusionary in terms of gender equality. These norms reflect not only the social structure of the time but also the cultural perception of property as a male inheritance tool, which continued to influence the subsequent development of Albanian civil law.

5.2 Historical Evolution of Property and Inheritance Rights in Albania (Ottoman Period – Socialist Period)

During the Ottoman occupation, property and inheritance relations in Albanian territories were regulated within the normative framework of Islamic law**,** implemented through the Mecelle and the Sharia. The Mecelle, representing a codification of Islamic civil law, regulated property relations, while inheritance remained under the jurisdiction of the Sharia until 1929.

The primary source of Sharia law was the Quran, which regulated inheritance according to specific principles that institutionalized gender inequality. According to the relevant provisions, if a testator left behind a daughter and a son, the estate was divided in a 2:1 ratio in favor of the son. Likewise, a male spouse, when inheriting alongside children or grandchildren, received one-quarter of the estate, while in the absence of descendants, he inherited one-half. Conversely, a female spouse, when competing with children or grandchildren, inherited one-eighth of the estate, and in the absence of descendants, one-quarter.

These provisions clearly reflect the patriarchal structure of Islamic law, where women had a secondary role compared to men in matters of inheritance and property (United Nations Albania, 2020, p. 38).

5.3 Albanian Positive Law (1912–1929)

After the declaration of independence, Albanian positive law in the field of property and inheritance continued to rely on legislation inherited from the Ottoman Empire, including the Ottoman Civil Code (Mecelle)**,** the Land Law of 1856, and other secondary acts. It was only with the entry into force of the Civil Code of 1929**,** effective from April 1 of that year, that an independent codification of Albanian civil law was achieved.

The 1929 Civil Code devoted a special section to the legal regime of marital property, specifically in Title III "Marriage Contract" (Articles 1331–1389)**.** This code provided for three fundamental forms of property regime between

spouses: the dowry, paraphernalia, and joint property of earnings. Within this framework, each spouse had the right to own personal property, movable or immovable, which was not considered communal property (Civil Code of the Albanian Kingdom, 1929).

According to the Code, the *dowry* was defined as the property that the wife or her family brought to the husband to meet marital obligations (Articles 1331–1367), while the right of administration was granted to the husband for as long as the marriage lasted (Article 1399). Conversely, paraphernal property, which was not included in the dowry, remained under the ownership and administration of the wife, limiting the husband's intervention only in cases of direct instruction from her. This arrangement represented a moderate step toward recognizing women's property rights, although in practice it remained limited due to the influence of patriarchal tradition (United Nations Albania, 2020, p. 39).

5.4 Period after 1945

After 1945, with the establishment of the socialist regime, a radical transformation of property relations occurred. Measures such as the nationalization of private property, agrarian reform, and the creation of agricultural and artisanal cooperatives were implemented. By 1976, four forms of property were recognized in Albania: state, cooperative, personal, and private.

According to Article 17 of the Constitution of the People's Republic of Albania (1946)**,** *"women are equal to men in all fields of private, political, and social life"*, thereby establishing, in principle, gender equality in constitutional law. However, this equality was only partially realized in legal practice.

Decree No. 601, dated May 18, 1948, "On Marriage"**,** repealed previous provisions regarding marital property, stipulating that the property of each spouse prior to marriage remained personal, while property acquired during marriage was considered joint property, regardless of whose name it was registered under. This represented one of the first concrete steps toward property equality between spouses (Decree No. 601, 1948).

In the same line, the Civil Code of 1981 (Law No. 6340, dated June 26, 1981) explicitly provided that all property acquired during marriage constituted joint property, including property acquired through inheritance or gift, except for items intended for personal use. This regulation marked the full institutionalization of the principle of property equality between husband and wife, decisively breaking with the patriarchal traditions of customary law and the Ottoman-inherited legislation (United Nations Albania, 2020, pp. 40–42).

5.5 The Period from the 1990s to the Present

The process of property transformation in Albania after the 1990s was realized through a series of legal acts aimed at transitioning from the socialist model of state property to a system of private ownership and a free market economy. Among these acts, Law No. 7652, dated 23.12.1992, "On the Privatization of State-Owned Apartments"**,** represents a key milestone in this transition. The primary objective of this law was to enable the privatization of state-owned apartments, granting tenants the right to acquire ownership, as well as to sell, lease, or mortgage these properties on the free market. Through this legal mechanism, the private housing market was established for the first time after decades of collective ownership, becoming an essential component of Albania's market economy. According to Article 9 of Law No. 7652, the holders of property rights over privatized apartments were the existing tenants and the adult members of their families. The law also provided that, with the consent of the tenants, the apartment could be transferred to one of them. For the determination of the family composition and adult members, Article 20 of the law referred to the civil registries as of December 1, 1992, thus establishing a clear temporal limit for eligible beneficiaries.

Another fundamental legal act in the field of property relations was Law No. 7501, dated 19.07.1991, "On Land", which regulated the distribution of agricultural land among the families of former agricultural cooperatives. This law, amended several times over the following years, reflected the complexity and dynamics of economic and social developments in rural areas of Albania, as well as the legal position of women regarding land ownership.

Formally, the law had a gender-neutral character, stipulating that all rights deriving from it applied equally to both genders. However, in practice, this equality was often not realized, as property and land division documents were issued in the name of the *"head of the family"*, who was in most cases male, thus affecting women's legal representation in agricultural property.

According to Article 5 of Law No. 7501, the right to benefit from land belonged to the families of the former agricultural cooperatives, while the transfer of land ownership required the unanimous consent of the members and had to comply with the provisions of the law on real estate transfer. Article 25 further provided that agricultural land could be

inherited by descendants, regardless of their membership in the agricultural economy.

From a legal perspective, the rights of each family member did not change in the event of marriage or leaving the family, thus maintaining the stable character of the real right of co-ownership.

In accordance with the Civil Code at the time, a woman—as a member of the agricultural family—was entitled to land based on the number of family members. In the case of marriage dissolution, she had the right to divide the family agricultural property and manage her entitled share. Moreover, according to Articles 222 et seq. of the Civil Code, even in cases where a woman did not directly acquire land under the "On Land" law, she obtained co-ownership status due to marital ties and her contribution to the family's joint property.

The 1994 Civil Code, approved under Law No. 7850, reaffirmed the principle of equality between spouses in joint property, stipulating that property acquired during marriage belongs jointly to both spouses, except in cases where a different agreement exists. This demonstrates a significant shift in the rights and equality of Albanian women regarding property rights.

6. Constitutional and Civil Law Guarantees of Gender Equality and Property Rights in Albania

6.1 Constitutional Principles of Equality and Property Protection

Article 18

1. All persons are equal before the law.
2. No one shall be unjustly discriminated against on grounds such as gender, race, religion, ethnicity, language, political, religious, or philosophical beliefs, economic, educational, social status, or parental affiliation.
3. No one shall be discriminated against for the reasons mentioned in paragraph 2 unless there is a reasonable and objective justification.

(Constitution of the Republic of Albania, 1998, Article 18**)**

Article 18 constitutes the fundamental guarantee of equality and the cornerstone against discrimination in the Albanian constitutional order. It contains three layers:

1. Formal equality before the law,
2. Prohibition of discrimination on specific grounds,
3. Possibility of differential treatment only if justified by reasonable and objective grounds (i.e., substantive and proportional equality).

Article 41

1. The right to private property is guaranteed.
2. Property is acquired through donation, inheritance, purchase, or any other classical method provided by the Civil Code.
3. The law may provide for expropriations or restrictions on the exercise of property rights solely for public interests.
4. Expropriations or restrictions equivalent to expropriation are permitted only with fair compensation.
5. Disputes regarding the amount of compensation may be appealed in court. **(**Constitution of the Republic of Albania, 1998, Article 41**)**

Article 41 guarantees a balance between private and public interests, establishing three fundamental pillars:

1. Protection of the right to property as a fundamental right (paragraph 1),
2. Regulation of the methods of acquiring property according to the Civil Code (paragraph 2),
3. Conditioning any restriction or expropriation on public interest and fair compensation (paragraphs 3–5).

Essentially, this article aligns Albania with European standards on property rights, requiring that any state intervention be lawful, pursue a legitimate aim, and remain proportionate.

6.2 Civil Code Provisions on Property Transfer and Co-ownership

Article 83 of the Civil Code provides that:

> *"The legal act for the transfer of ownership of immovable property and real rights over it must be carried out by notarial deed and registered; otherwise, it is not valid."*
> ***(****Civil Code of the Republic of Albania, 1994, Article 83****)***

This article establishes the conditions for the validity of any legal act aiming to transfer ownership or real rights over immovable property. It contains two cumulative mandatory requirements:

1. The notarial form of the legal act;
2. Registration in the public registers of immovable property.

In the absence of either, the legal act is invalid.

Article 208 of the Civil Code states:

> *"The alienation of jointly owned property may be carried out only with the consent of all co-owners." (Civil Code of the Republic of Albania, 1994, Article 208)*

This article clearly stipulates that the alienation of co-owned property requires the explicit consent of all co-owners.

6.3 Family Law Framework on Marital Property Regimes

Article 66 – Marital Property Regime of Spouses

> *The marital property regime of spouses is governed by law, in the absence of a specific agreement, where spouses determine the regime they wish to adopt, which must not contradict the provisions of this Code and relevant legislation. (Family Code of the Republic of Albania, 2003, Article 66)*

Article 73 – Legal Community

> *The marital property regime of the legal community applies when spouses have not entered into a contract establishing a different marital property regime.*
> *(Family Code of the Republic of Albania, 2003, Article 73)*

Article 74 – Composition of the Community

The community consists of:

a) property acquired by both spouses, jointly or separately, during the marriage;
b) income from the separate activities of each spouse during the marriage, if not consumed by the end of co-ownership;
c) fruits of each spouse's property that are collected and not consumed by the end of co-ownership;
d) commercial activities established during the marriage. If the commercial activity existed before marriage and was conducted by only one spouse but managed jointly during the marriage, the community includes only the profits and the increase in production.
(Family Code of the Republic of Albania, 2003, Article 74)

Article 77 – Separate Property

A spouse's separate property not included in the community consists of:

a. property that, before marriage, was co-owned with others or subject to a real right of use;
b. property acquired during the marriage by donation, inheritance, or legacy, unless explicitly stated to belong to the community in the act or will;
c. property for personal use and property acquired as accessory to separate property;
d. tools necessary for exercising one spouse's profession, except those designated for managing a commercial activity;
e. property acquired as compensation for personal damage, excluding income derived from pensions due to partial or total incapacity;
f. property acquired from the alienation of the aforementioned separate property;
g. exchange of such property, when expressly stated in the purchase deed.
h. (Family Code of the Republic of Albania, 2003, Article 77)

The provisions of Articles 66, 73, 74, and 77 of the Family Code stipulate equality between husband and wife, outlining the rights and obligations arising during marriage concerning the marital community. They specify which assets acquired during the marriage are subject to the community property regime and considered joint property, and which will remain individual property regardless of the community property regime.

7. Conclusions

1. Women's property rights in Albania have undergone a long process of transformation, from traditional exclusion to increasing participation, influenced by legal, social, and international factors.
2. The Constitution of Albania and modern civil laws recognize and guarantee gender equality in property rights, including inheritance, marital joint property, and the right to register property in the name of the wife.
3. The practical implementation of these rights still faces structural and cultural challenges, including:
    - The influence of patriarchal customs,
    - The lack of legal awareness among women,
    - Unequal registration of property in the names of both spouses.
4. The contribution of international institutions, such as the Council of Europe, through the European Convention on Human Rights (in particular, Protocol 1, Article 1), has strengthened the protective framework for women's property rights, establishing standards that demand not only formal but also effective equality.

8. Recommendations

- The effective implementation of gender equality in property rights should be a political and institutional priority.
- An interdisciplinary approach is required, encompassing law, education, sociology, and economics, to address the root causes of obstacles.
- Regular and independent monitoring of gender-disaggregated property statistics is needed to realistically measure progress

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