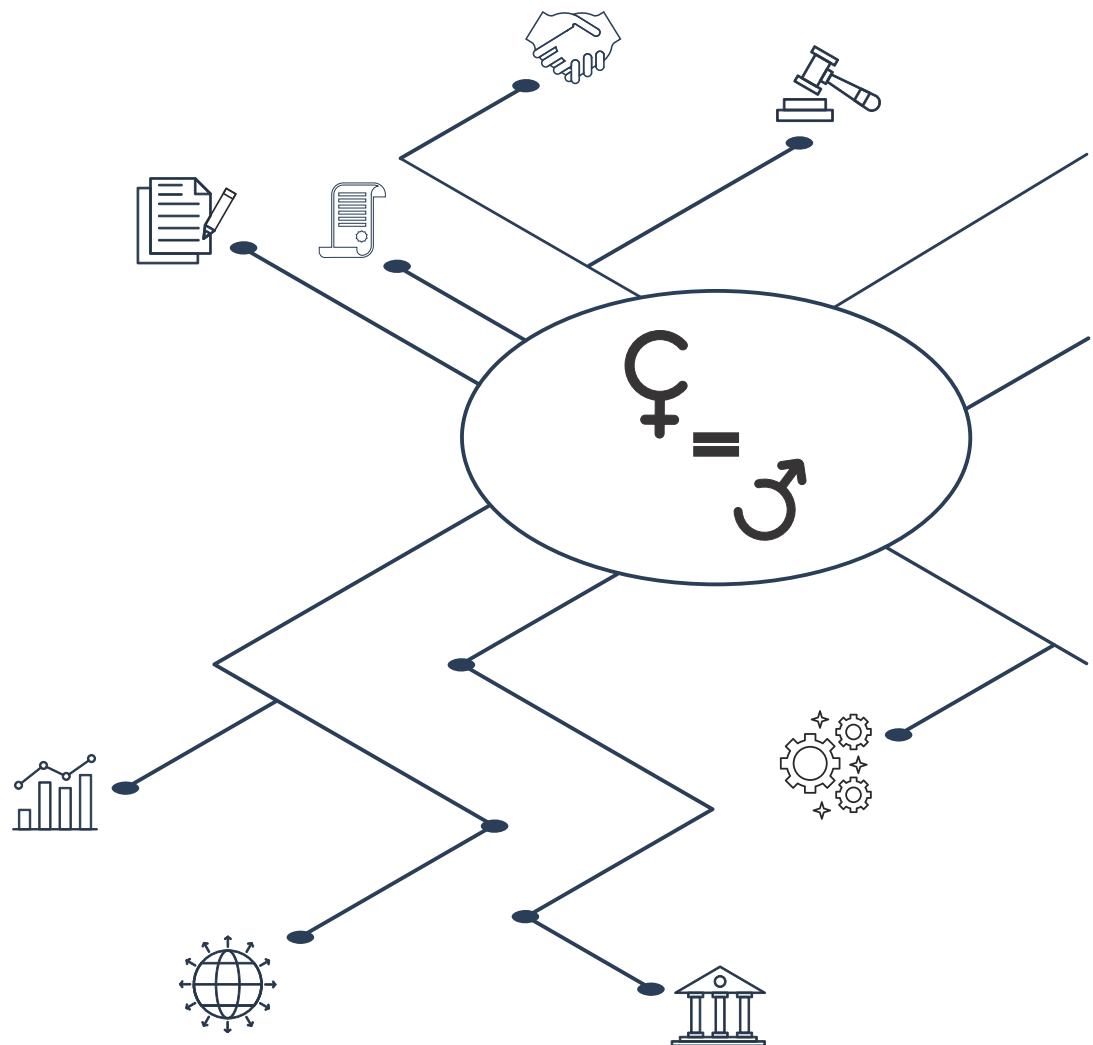


Women in Politics II:

Gender responsive policy-making at the local and national level



August 2020



WOMEN IN POLITICS II: GENDER RESPONSIVE POLICY-MAKING AT THE LOCAL AND NATIONAL LEVEL

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EXECUTIVE SUMMARY

Ensuring sustainable gender-equality across public institutions in Kosovo remains difficult to attain. Women are not duly represented in (political) decision-making positions, nor are policies designed through a gender perspective. Considerable changes need to be institutionalized in order to ensure gender-mainstreaming across policy-making. The gender-quota of fifty (50) per cent in the Law on Gender Equality must be harmonized with all other existing laws, including the Law on General Elections. In addition, the Kosovo Assembly should establish or mandate a permanent Committee on Gender Equality which reviews all draft-laws for gender-mainstreaming criteria. The rigorous collection of gender disaggregated data throughout public institutions is crucial for the comprehensive design of inclusive policies. Above all, cooperation among women political representatives in Municipal and the Kosovo Assembly is vital to ensure women participation in public consultations and gender-mainstreaming legislative initiatives.

Gender-mainstreaming can be institutionalized through various other instruments available to political representatives. In addition to the quota, the LGE delineates a standard for gender-mainstreaming across all levels of policy planning. This entails that political representatives and civil servants alike, must engage proactively in verifying that laws and policies are based on gender dis-aggregated data. In line with the Law on Local Self Government, Law on Rights and Responsibilities of MPs and the Law on Gender Equality, (women) political representatives have the opportunity to shape local/national policies, safeguard public participation of citizens in decision-making and monitor the implementation of legal criteria related to gender-mainstreaming at the legislative level.

As it is, there is an accentuated gap of cooperation between women Municipal Assembly members and MPs. Citizen needs identified at the local level are rarely addressed through policy-making at the local level, let alone national. Women representatives and their respective women caucuses' do not cooperate effectively in order to address relevant issues

pertaining to gender-mainstreaming at the local and national levels. Additionally, they have failed to safeguard and ensure the participation of citizens in public consultations on various sectorial policy issues. While legal benchmarks have been set by the LGE on gender-mainstreaming, women political representatives at both levels do not engage comprehensively in monitoring whether its implementation is maintained.

Effective representation, ensuring public participation and thorough monitoring are dependent on each other in order to address shortcomings of gender-mainstreaming in public institutions. Any attempt at improving the legislative cooperation for gender-mainstreaming entails a process where these three aspects are dynamically intertwined. Legislative cooperation at the local and national levels need to ensure that the public participation of women is safeguarded across all sectorial policy-proposals. It is only through comprehensively understanding the needs of citizens that women political representatives may use their legal competencies to advocate and push for more inclusive legislative proposals. However, these mechanisms won't prove beneficial if there is no political will towards ensuring the impartial monitoring and supervision of legislation. As the case with the law on Gender Equality, its importance and societal benefits are only as strong as the systematic implementation and monitoring of it.

RECOMMENDATIONS

A clear set measurable actions are required to advance gender-mainstreaming across policy-making. To do this, both administrative and political support are required. Public institutions and their respective civil services must ensure that policies are based on comprehensive gender-mainstreaming throughout their formulation and implementation. To compliment this, political representatives at the local and national levels must mobilize toward ensuring that all legislation passed ensures favorable conditions for gender-equality. In order to ensure that gender-mainstreaming is standardized across public institutions, institutions and political actors must:

1. Relaunch the electoral reform and harmonise the Law on General elections with the law on Gender Equality. This also includes replacing the thirty (30) percent gender-quota with the fifty (50) per cent quota outlined in the Law on Gender Equality;
2. The Kosovo Assembly should establish a permanent committee on Gender-Equality. This ensures that all legislation (draft-laws) fulfil gender-mainstreaming criteria as established in the LGE. One of the existing committees (i.e Committee for Human Rights, Gender Equality, Missing Persons and Petitions) can take that role
3. Women MPs should use their position as national political representatives to advocate more sternly for the participation of women in public consultations. Women chairs and members of parliamentary committees should ensure that draft laws at the Kosovo Assembly are met with the necessary public scrutiny, specifically the deliberation of women's needs;
4. (Women) Municipal Assembly members should amend or propose municipal regulations in line with the requirements of the LGE. The amendments/ proposals must ensure that regulations abide by

the fifty (50) percent gender-quota and are based on gender dis-aggregated data;

5. Municipal Assemblies should strictly implement the requirements of the Law on Local Self Government on the organization of (at least) two public meetings with citizens yearly. Women Municipal Assembly members should insist on ensuring gender-equal participation of citizens through informing and incentivizing women to be part of public consultations;
6. (Women) Municipal Assembly members must mobilize to create auxiliary and consultative committees on Gender Equality in Municipal Assemblies. These committees must discuss and filter -with the participation of citizens- local policies through a gender perspective and propose concrete findings for the amendment of existing/new municipal acts;
7. Women political representatives at both the local and national level must address the lack of gender dis-aggregated data-gathering throughout Municipal and Ministerial departments/divisions through the work of municipal/parliamentary committees. Municipal and parliamentary committees must be utilized as in instrument to raise awareness of the punitive measures against failure of institutions to report based on gender dis-aggregated data;
8. Donors must provide necessary support to public institutions and civil services in enhancing capacities for the collection of gender disaggregated data and the evaluation of policy-interventions on a gender basis.

INTRODUCTION

Gender-equal representation in policy-making continues to be a major challenge to Kosovo's institutions. Subject to a significantly advanced law on gender equality (LGE), Kosovo institutions consistently fail to fulfil the legal benchmarks outlined by it.¹ The 2014 LGE regulates a number of actions aimed at achieving gender-representation at both the political and the policy level. At the political level, the law institutes a fifty (50) percent gender quota across all legislative, executive and public institutions.² At the policy level, it establishes a comprehensive framework for gender-mainstreaming throughout different phases of policy making.³

Law-makers in the Kosovo Assembly have competency over engineering legal frameworks that regulate both political representation and gender-mainstreaming across policies. However, the political will of MPs is central to affecting change in both domains. In the case of the former (political representation), the Kosovo Assembly is host to a politicized and polarized debate on mending the legal disharmony between the Law on Gender Equality and Law on General Elections⁴. Most recently, the Ombudsperson Institution (OI) filed a lawsuit against the Central Election Commission (CEC) for not supporting the equal gender representation on party lists as required by the standards of the LGE.⁵

The discussion on the gender quota remains problematic because it is inherently tied to shifts in the structure of the Assembly. The law on general elections establishes that party

¹ Balkans Group, "Women in Politics: Gender (In)Equality in Politics and Decision-Making. February 2019, at <https://balkansgroup.org/blog/post/articles/grate-ne-politike-pabarazia-gjinore-ne-politike-dhe-vendimarrje>

² Law no. 05/L-020 on Gender Equality, Article 6(8)

³ Ibid, Article 5

⁴ Law no. 05/L-020 on Gender Equality and Law no.003/L-073 on General Elections.

⁵ *The Ombudsman sues the CEC*, September 2019: <https://kallxo.com/lajm/avokati-i-popullit-padit-kqz-ne/>

The Ombudsman Institution, "Civil lawsuit on the issue of the discrimination of women in elections", at https://oik-rks.org/wp-content/uploads/2019/10/ALB-Padia-civile-lidhur-me-ceshtje-te-diskriminimit-te-grave-n%C3%AB-zgjedhje_.pdf?fbclid=IwAR3IGVs_xQlgZMFifoVsnNT8tU6NT9wRUh24MnlvSx-8zefiaw8g83tHmQ

The lawsuit was rejected by the Basic Court in Prishtina on the grounds that the lawsuit did not specify concrete individuals/subjects that had been discriminated against in the formulation of electoral lists, at https://oik-rks.org/wp-content/uploads/2019/10/Aktvendim-Gjykata-Themlore-n%C3%AB-Prishtin%C3%AB-lidhur-me-masen-e-perkohshme-Padia-civile-lidhur-me-ceshtje-te-diskriminimit-te-grave-n%C3%AB-zgjedhje.pdf?fbclid=IwAR1KZADhdvTgTVIOrMpMNH5ZQEvi6vN7lfCusn47rYFaZ_-KbXZB3-Gzrc

lists must be composed of at least 30 per cent women and 30 per cent men.⁶ In addition, it outlines that a candidate from each gender must be included at least once every three candidates.⁷ This regulation in particular, has caused significant animosity between MPs. Recently, a member of Vetevendosje who received more votes than her male counterparts in the 2019 elections, could not secure a seat in the Assembly due to these regulations.⁸ Despite a higher vote count, she was prevented her from securing a seat in the Assembly. The Central Electoral Commission (CEC) gave way to male MPs in line with the gender ranking order established in the law on general elections. This issue has been evident in the case of male deputies as well.⁹ Male MPs who tend to receive more votes are often bypassed in order to give way to women candidates. This has resulted in politicized debate on candidate merits to become deputies in the Assembly.

Should there be a shift to a fifty per cent quota as stated in the LGE, the debate becomes more problematic. Men MPs who may get more votes than women and are under threat of losing their mandate due to the quota, will be reluctant to embrace this change easily.

With thirty-nine (39) women MPs in the Assembly, they lack the support from their male colleagues to initiate the harmonization between the 30 per cent quota in the law on general elections and the 50 per cent quota in the law on gender equality. As it stands, achieving the right and equal political representation in line with the LGE is increasingly difficult to attain.

Women MPs do however, have considerable legislative power to mobilise for the other aspects of the LGE; that is,

⁶ Law no. 03/L-073 on General Elections in the Republic of Kosovo, Article 27 (1)

⁷ Ibid, Article 27(1)

⁸ Vetvendosje candidate Tinka Kurti could not secure a replacement seat in the Kosovo Assembly following the assignment of Vetvendosje MPs for executive positions in the Kurti government. Although she had more votes than her male counterparts, the CEC -in accordance with Article 28 of the Law on General Elections- decided to offer mandates to male MPs, at <https://kallxo.com/lajm/kurti-pret-vendimin-e-gjykates-per-mandatin-e-deputetes/>

⁹ In the case of men MPs who are bypassed to give way to women candidates, the debate has been raised on the merits of the candidates. In cases where women MPs are required to give up on their seats the debate is raised on the restrictive effect of the actual quota. It is evident that the 30% quota has produced positive results, and the classic debate on the issue of meritocracy does not impair the rightfulness of the quota as a measure to correct the historical gender inequality.

ensuring that laws and policies are designed according to gender considerations. Women at local Municipal Assemblies and the Kosovo Assembly have a unique opportunity in establishing themselves as legislative overseers of gender-mainstreaming in public policy processes through a number of legal instruments at their disposal. This role is pragmatically attainable, considering that it is not subject to the political will of men party leaders and men deputies in favoring higher women representation in the Assembly. Indeed, debates on the political representation of women should not be side-lined, however, women representatives need to move towards a proactivity in ensuring that citizen (women) needs are duly addressed through local and national policy-making.

ADDRESSING THE GAP BETWEEN WOMEN LEGISLATIVE DECISION MAKERS AT DIFFERENT LEVELS

Three main hindrances underline the cascading failure of political representatives to integrate gender-mainstreaming as a cross cutting characteristic in the design/change of policies. First, the perceived split between national and local policy-making has resulted in a degree of friction between (women) political representatives. This has in turn affected the willingness of local representatives to engage with MPs to address issues collectively (and vice-versa).¹⁰ Second, political representatives have simply not utilized existing mechanisms to ensure the inclusion of citizens in policy-making processes. Municipal Assemblies continue to either fail, or minimally fulfil the legal benchmarks for the inclusion of citizens in decision-making.¹¹ Third, as legislative overseers of law-making processes (both locally and nationally) women political representatives have not comprehensively monitored the implementation of laws. Aspects of the LGE in particular (e.g. gender-mainstreaming across all laws, gender dis-aggregated

Quote

“We can complement each other as we in the municipal assembly lack the power to make decisions. If we establish cooperation with the central level, we will have better opportunities”

¹⁰ Balkans Group Regional Outreach Discussions with Elected Women Representatives, January 2020

¹¹ The law on Local Self Government establishes a minimum of two periodical meetings with citizens at the local level annually. According to the latest Ministry of Local Governance Administration (MLGA) ‘Municipality Functionality Report for 2020’, a total of 22 municipalities have not held any (required) periodical meetings with citizens.

data-gathering, and others), remain unimplemented across various public institutions.¹² Without the necessary scrutiny of the implementation of gender-mainstreaming and its timely addressal, compliance by public institutions cannot be regulated comprehensively.

These issues continue to pose a significant impediment to the thorough application of gender-mainstreaming as an overarching practice in the design of laws and policies. Despite the nature of these inefficiencies, there are a number of legal instruments that women representatives can make use of in order to directly address the above-mentioned shortcomings. In particular, the Law on Local Self Government, the Law on Rights and Responsibilities of MPs and the Law on Gender Equality, set out various regulatory frameworks that can be utilized to improve gender-responsive policymaking in Kosovo.

Quote

“If the central level is not more rigorous in seeking input from the local level, the local level will not meet the requirements. The problem is not just about employment, it’s about decision-making positions”

Law on Local Self-Government	<ul style="list-style-type: none"> - Proposal and amendment of municipal acts that create local mechanisms for the implementation of national applied legislation; - Creation of auxiliary and consultative committees with citizen participation that can submit proposals, conduct research and provide opinions on Municipal initiatives;
Law on Rights and Responsibilities of MPs	<ul style="list-style-type: none"> - Engage in local governance policies through participation in meetings/discussions/initiatives of local governance authorities; - Require immediate deliberation with sectorial Ministries and Ministers on issues related policy processes (e.g. law-making related to specific competencies of Ministries)
The Law on Gender Equality	<ul style="list-style-type: none"> - Gender mainstreaming of all policies, documents and legislation;

The Law on Local Self Government sets out the general framework for the role of Municipal Assemblies in the democratic governance of Municipalities. Given that Municipalities have exclusive powers in organizing a range of sectorial policies ranging from economic development, provision of education, health and social welfare services, to the promotion and protection of human rights, Municipal Assembly members exercise a vital role in ensuring that local policies are inclusive.¹³

¹² Kosovo Women’s Network, “Kosovo Gender Analysis”, 2018,

at <https://womensnetwork.org/wp-content/uploads/2018/10/womens-network.pdf>

¹³ Law no on Local Self Government, Article 17

Quote

“In budgetary hearings the problem is the participation of women given that it is very low”

Perhaps the most important aspect identified in the Law, is the notion of direct democracy and citizen participation.¹⁴ This provisions are complemented with the mandate of the Ministry of Local Governance Administration (MLGA) to ensure that policies are being implemented for the increase of citizen participation in decision-making.¹⁵

As such, Municipal Assemblies have the mandate to adopt and implement decisions in line with the needs of citizens.¹⁶ The law offers Municipalities (and their members) a number of instruments that they can utilize in order to ensure that citizen needs/requests are duly examined in the design of municipal acts.¹⁷ Most notably, periodical public meetings and consultative committees are key tools Municipal Assembly members can utilize in order to ensure that citizens are included in the decision-making process related to various sectorial policies.¹⁸

The Law on Rights and Responsibilities of MPs details the legal opportunities MPs at the national level can utilize to scrutinize and enhance the accountability of local authorities and decision-makers. MPs are required to serve as between local and national authorities in addressing gaps in legislative decision-making. In relation to local authorities, MPs have rights to regularly attend meetings organized by local authorities.¹⁹ In addition, local authorities are required to provide MPs with a calendar of sessions at the beginning of the month.²⁰ This mechanism ensures that MPs at the national level have direct access to information on the level of local policy-making and

¹⁴ Ibid, Article 39

¹⁵ Government Regulation No. 05/2020 on the areas of Administrative Responsibility of the office of the Prime Minister and Ministries, Annex 13

¹⁶ According to Law no. 03/L-040 on Local Self Government and the Rules of Procedure for Drafting and publishing Municipal Acts, Municipal Assemblies have direct competencies in designing the statute, rules of procedure of the Assembly, decisions, regulations and other general acts, approve municipal budgets, establish permanent committees, consultative committees and other committees.

¹⁷ Law no. 03/ L-040 on Local Self Government, Article 68 on Public Information and Consultation and Article 73 on Consultative Committees.

¹⁸ Law on Local Self Government, Article 68 on Public Information and Consultation establishes that “each municipality, shall hold periodically, at least twice a year, a public meeting at which any person or organization with an interest in the municipality may participate”. Article 73 on Consultative Committees establishes that “the Municipal Assembly shall establish consultative committees within sectors for the purpose of enabling citizen participation in the decision-making process”. “Consultative committees may submit proposals, conduct research and provide opinions on Municipal Assembly initiatives in accordance with the Municipal Statute”.

¹⁹ Law On Rights and Responsibilities of the MP, Article 12 (1)

²⁰ Ibid, Article 12 (2)

its scope.

At the central level, MPs similarly have rights in relation to national executive authorities. Heads of institutions (namely Ministries) are obliged to “welcome [MPs] with a priority, any time s/he asks for a meeting for the problems linked to carrying out their duties”.²¹ These meetings can serve the purpose of MPs engaging in direct debates with Ministers “regarding the fulfillment of his task, of Ministers or the Heads of other central institutions, as well as every institution in the state administration of the local governance”.²² This legal mechanism provides an important opportunity for MPs to examine the compatibility of legislative policy-making between the local and national levels.

The Law on Gender Equality provides the overarching legal benchmarks that regulate gender-mainstreaming. As previously established, the law institutes both political (fifty percent quota in political representation) and policy level regulations that aim at increasing gender-equality²³. The policy level regulations are all aimed at ensuring that the “principle of gender equality and gender integration are applied in all planning, budgeting and implementation of acts by public and private entities”.²⁴ To ensure this, institutions at all levels, including the legislative are required to warrant that policies/actions are implemented according to a number of general measures, such as:

- gender mainstreaming of all policies, documents and legislation;
- inclusion of gender budgeting in all areas, as a necessary tool to guarantee that the principle of gender equality is respected in collecting, distribution and allocation of resources;

Quote

“The problem is the low participation of citizens in public consultations, and the even lower participation of women”

²¹ Ibid, Article 13 (1).

²² Ibid, Article 13(2).

²³ The LGE distinguishes between two types of measures to prevent gender discrimination and ensure gender equality: general and special. General measures are seen as policy level mechanisms that require institutions (legislative, executive, judicial and other public institutions) to enshrine in their everyday work in order to ensure that gender mainstreaming becomes a de-facto operating procedure. Special measures are seen as temporary mechanisms, in some cases through affirmative action, to accelerate the equality between men and women throughout different social and political domains.

²⁴ Law on Gender Equality, Article 4 (4).

Quote

“Practicing data-driven policies”. Gender-responsive budgeting must be done through gender-based data in order to have a gender-based “

– gender division of all data and collected statistical information shall be recorded, registered, processed and shall be obliged to be submitted to the Kosovo Agency of Statistics²⁵;

These measures are legal requirements that individuals/institutions in decision-making positions must consider when designing policies. In the case of local and national legislation, elected representatives must be cautious and provide effective oversight in maintaining these general measures outlined by the LGE.

The legal instruments and mechanisms in these three laws provide numerous opportunities for women elected representatives to enhance the scope of gender-mainstreaming considerations throughout various policy-making stages. Specifically, these aspects can be used to directly impact gender-mainstreaming’s deficiencies in 1) *representation*, 2) *public participation in policy-making* and 3) *legislative supervision*.

ENSURING EFFECTIVE REPRESENTATION

Kosovo’s electoral system allows citizens to elect representatives at both the local and central level. Voters elect women representatives for the national assembly and local government bodies on the basis of thirty per cent quota.²⁶ This framework has somewhat promoted lack of cooperation between women representatives at municipal assemblies and the Kosovo Assembly. This comes as a result of both groups focusing and working exclusively at the level (local or national) they have been elected to represent. Though this is expected, a more coordinated effort is required in order to ensure that citizen needs at the local level are addressed by relevant policy-making at the national level.

As it is, there is a massive gap in addressing basic needs of citizens and there is little effort to increase women’s roles in addressing them. Women Municipal Assembly members claim that Women MPS have failed to engage with local policy problems. Part of

²⁵ Law no. 05/L-020 on Gender Equality, Article 5.

²⁶ Law no. 03/L-073 on General Elections in the Republic of Kosovo, Article 27 (i)

this is ascribed to the belief that women MPs, once in Assembly, only focus on law-making at the national level.²⁷ Likewise, MPs have been reluctant to welcome these concerns, attributing the failures to the lack of local representatives' engagement in addressing relevant issues in their Assemblies²⁸. Both groups have been indeed unable to address relevant issues in their respective policy-venues, however, they have also made little efforts to utilize the available instruments to influence policy-making.

Frequent discussions on the electoral system have often suggested that electoral districting will produce more accountable representation, where the local population (women) would have the chance to elect their district MPs that would directly represent their needs and interests at the national level. However, the current system of elected representatives at two-levels can equally be as effective, if the roles of the elected representatives at both levels were to be utilized more effectively.

The effective and comprehensive use of competencies across local and national legislative bodies is imperative for effective gender-mainstreaming. As local representatives, women Municipal Assembly members have direct competencies in shaping the political direction of municipal acts.²⁹ Within the scope of existing laws, municipal acts compliment the implementation of legislation at the local level.³⁰ As such, women Municipal Assembly members may mobilize political backing in order to ensure gender-mainstreaming in municipal acts.³¹ A clear example of this has been the 2017 amendment of

Quote

In the area of gender budgeting, we require a push from the central level when municipalities do not apply accountable budgeting which is a legal obligation. Women MPs at the central need to push the Minister of Finance to disapprove budgets for municipalities that have not met the requirements for gender-responsive budgeting “

²⁷ Balkans Group Regional Outreach Discussions with Elected Women Representatives, January 2020

²⁸ Ibid.

²⁹ Law no. 03/L-040 on Local Self Government, Article 39

OSCE “Relationships between Central and Local Government: Municipal Acts”, September 2009 URL: <https://www.osce.org/kosovo/67462?download=true>

³⁰ Regulation (MLGA) no. 01/ 2017 on the Procedure for drafting and Publishing Municipal Acts establishes that municipal acts include: statutes, regulations, decisions and orders. According to Article 13, proposers of municipal normative acts may include: mayor and municipal administrative units, the chairperson of the municipal Assembly, committees of the municipal Assembly, members of the Municipal Assembly and fifteen (15%) of the citizens of the respective municipality with the right to vote.

³¹ Kosovo Women's Network “Gender Analysis in Kosovo” report of 2018 highlights that a large portion of primary and secondary legislation in Kosovo does not include a gender perspective, at <https://womensnetwork.org/wp-content/uploads/2018/10/20181003170921410.pdf>

municipal regulations in the Municipalities of Istog and Decan.³² Women Municipal Assembly members mobilized to address the gender disparity in regulations through establishing: 50 per cent quota of women participation in committees and a thirty (30) per cent quota of women participation in local councils.³³ This proves that women political representatives at the local level have significant power and can play a major role in addressing gender discrepancies through amending or proposing municipal acts.

In line with the Regulation on the Procedure for drafting and Publishing Municipal Acts, women representatives can propose regulations to aid and organise the process of gender-based data gathering across Municipal directorates in order to serve comprehensive gender analysis. To compliment representativeness, Kosovo Assembly MPs can engage directly in local governance policies by participating in the meetings of local governance authorities.³⁴ If utilized effectively, it can allow women representatives to meet regularly in order to examine the ramifications of gender-mainstreaming within local governance activities. In turn, MPs can then channel these insights through direct consultations with line-ministries and Ministers, and offer concrete steps for the enhancement of sectorial legislation. Failure to undertake these steps is clearly evident in the case of healthcare.

Quote

“With accurate data it is much easier at the sector level to continue cooperating.”

The Government’s “Sectorial Strategy on Healthcare 2017-2021” fails to cover both local and gender needs in the identification of priorities.³⁵ Municipal Assembly members and MPs can be instrumental in improving on this strategy and various other strategic national and local policy-documents through

³² Syri i Vizionit “Municipal Assemblies change three regulations to increase gender-equality”, at <https://www.syriivizionit.org/?page=158,583>

³³ Municipality of Decan Regulation on the Organisation and Cooperation of the Municipality with villages, settlements and urban neighborhoods in the territory of the Municipality of Decan and Regulation for the Amendment of the Municipal Regulation on the work of the Committee for the Naming, Renaming Squares, Roads, Alleys and other public places.

³⁴ Law No.03/ L-III On Rights and Responsibilities of the MP, Article 12

³⁵ Ministry of Health, “Sectorial Strategy on Healthcare”, November 2019, at http://kryeministri-ks.net/repository/docs/Strategjia-sektoriale-e-shendetesise-final-nentor-2016-ALB_.pdf

The strategy’s background discussion features no identification of (health) policy discussion with a focus on a local or gender perspective. A clear example of this is the discussion on ‘mental health’, with no analysis at all on local-specific issues and gender ramifications. This trend follows throughout the policy discussion on the background of prominent national health issues. Most notably, analysis on health priorities and the subsequent mid-term objectives are not structured and based along gender dis-aggregated data findings.

integrating gender-perspectives. In the case of local healthcare, the Municipal Directorate for Health would then be obliged (in line with the requirements of the LGE) to gather gender disaggregated data on various healthcare indicators across the Municipality. Further, MPs utilizing the municipal findings, can advocate for specific local and gender priorities in discussions with the line ministries. As a result, national sectorial strategies (such as the Sectorial Strategy on Healthcare) would benefit immensely through the integration of local and gender perspectives in the mapping of mid and long-term policy priorities. This is particularly how a push (given the existence of political will) by both local and national women political representatives can produce more inclusive strategies.

Quote

“Assembly members should push for gender-based data-gathering by relevant directorates, which in turn MPs should push certain ministries for relevant gender-based data-gathering to influence relevant policies”

PUBLIC PARTICIPATION IN LAW AND POLICY-MAKING

Ensuring favorable conditions for citizen (women) participation in public policy processes is imperative for far-reaching gender-mainstreaming. Undoubtedly, policies cannot be inclusive if the consultation processes do not include diverse perspectives, including gender. Not only do gender stereotypes and systematized oppression hinder positive developments in women’s participation, but the issue is exacerbated by failures of institutions and women political representatives to effectively utilize existing participatory mechanisms.³⁶ It is in their discretion to advocate for more favorable conditions for women participation in public consultations. This however, does not happen and informal women caucus’ at the local level claim to lack basic resources.³⁷ While this claim is substantial, financial resources are not indispensable in addressing this issue.

The Government Regulation on Minimal Standards for Public Consultations sets the overarching framework for ensuring public participation in policy consultations.³⁸ It outlines that all

³⁶ Kosovo Women’s Network, “Kosovo Gender Analysis”, 2018 URL: <https://womensnetwork.org/wp-content/uploads/2018/10/womens-network.pdf>

³⁷ Balkans Group Regional Outreach Discussions with Elected Women Representatives, January 2020

³⁸ Regulation (GRK) No.. 05/2016 on Minimum Standards for Public Consultation Process

public bodies are responsible to implement effective forms of public consultations in “drafting of legislation and policies”.³⁹ As representatives of citizen needs, political representatives are required to ensure that important policy proposals are met with the necessary public scrutiny. As such, sectorial policies -where gender-mainstreaming is essential-require increased (women) political representatives’ mobilization to ensure that there is an equal participation of men and women in public consultations. Given the public bodies have a legal responsibility in ensuring favorable conditions for public participation, women MPs need to be more proactive in promoting the benefits of women concerns vis-à-vis sectorial policies.

Municipal assembly members can equally employ a decisive role.⁴⁰ They can mobilize towards ensuring that women are offered the necessary opportunities in participating in public consultations. With informal women caucus’ being instituted in many Municipal Assemblies – with a similar mandate as the Women Caucus in the national Assembly- they can ensure that citizens (women) are offered viable opportunities to participate in public meetings. In the framework of the Law on Local Self Government, Municipal Assemblies have competencies to create sectorial ‘consultative committees’, whose purpose is “to enable citizens participation in the decision-making process”.⁴¹ These committees may also “submit proposals, conduct research and provide opinions” on issues related to sectorial policies.⁴² Women Municipal Assembly members and their informal caucus’ can make use of this instrument to directly affect change through gender-mainstreaming proposals in specific sectorial policies of a Municipality.

Quote

“There are various mechanisms that can be used to serve existing laws”

³⁹ Ibid.

⁴⁰ The Ministry of Local Governance Administration (MLGA) issued an Administrative Instruction (AI) on minimum standards of public consultations in municipalities in 2018. The aim of the AI is “to promote and ensure the participation of the citizens and other interested parties by the local authorities at the local level of the policy-making and decision-making process, to promote municipal transparency, as well as influence the development of sustainable policies of the general interest”. In line with the national Government Regulation on minimum standards for the public consultation process, this AI seeks to institute the same favorable conditions for public consultations in municipal bodies.

⁴¹ Law No. 03/L-040 on Local Self Government

⁴² Ibid

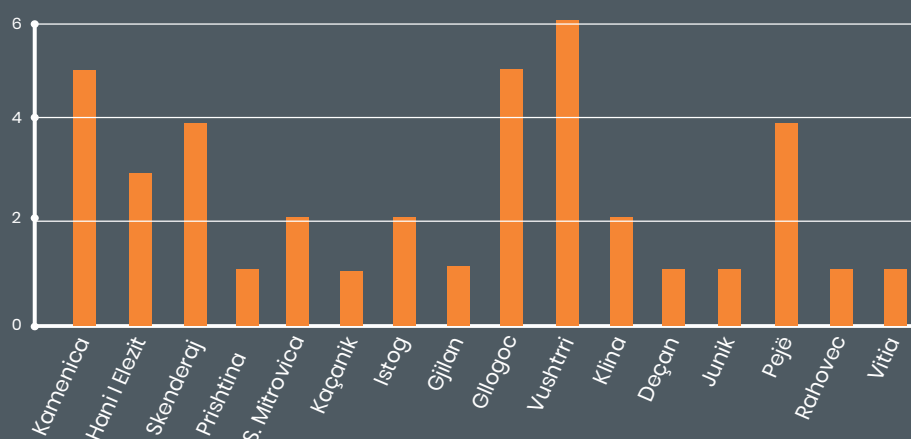


Figure 1. Number of Consultative Committees established in 2019 across different Municipalities taken from the Ministry of Local Governance (MLGA) “Municipality Functionality Report”⁴³

Since 2017, there has been a considerable increase of the number of consultative committees across municipalities. With 27 in 2017, 30 in 2018, 2019 resulted in the highest increase with a total of 43 consultative committees spanning across 16 different municipalities.⁴⁴ This marked a positive shift with regard to the inclusion of citizens in policy-making at the local level throughout the years. Most consultative (and auxiliary) committees were indeed created to deal with sectorial issues such as economic development, public services, education, etc.⁴⁵

Quote

“There is no productive monitoring of laws”

⁴³ Government of Kosovo, Ministry of Local Government Administration “Report on the Functioning of Municipalities of the Republic of Kosovo January - December 2019” at <https://mapl.rks-gov.net/wp-content/uploads/2020/03/3.-Report-on-the-functioning-of-the-municipalities-of-the-Republic-of-Ko....pdf>

⁴⁴ Government of Kosovo, Ministry of Local Government Administration “Report on the Functioning of Municipalities of the Republic of Kosovo January - December 2017”
Government of Kosovo, Ministry of Local Government Administration “Report on the Functioning of Municipalities of the Republic of Kosovo January - December 2018”
Government of Kosovo, Ministry of Local Government Administration “Report on the Functioning of Municipalities of the Republic of Kosovo January - December 2019”

⁴⁵ In addition to the creation of consultative committees as identified in Law no.03/L-40 On Local Self Government, MLGA issued AI 02/2018 on Amending and Supplementing the Administrative Instruction (MLGA) no. 03/2014 on the procedure of establishment, composition and competences of standing committees in municipalities. The AI outlines that “the municipality may establish other committees depending on the need to carry out responsibilities in a particular sector”.

In 2019, there have been no consultative or auxiliary committees that have dealt with gender issues. In 2017 on the other hand, there were 2 consultative committees dealing with Human Rights and Gender Equality and 4 auxiliary committees on Gender-Equality⁴⁶. Women municipal assembly members can

Figure 2. Fields covered by Consultative Committees in 2019 taken from the Ministry of Local Governance (MLGA) "Municipality Functionality Report

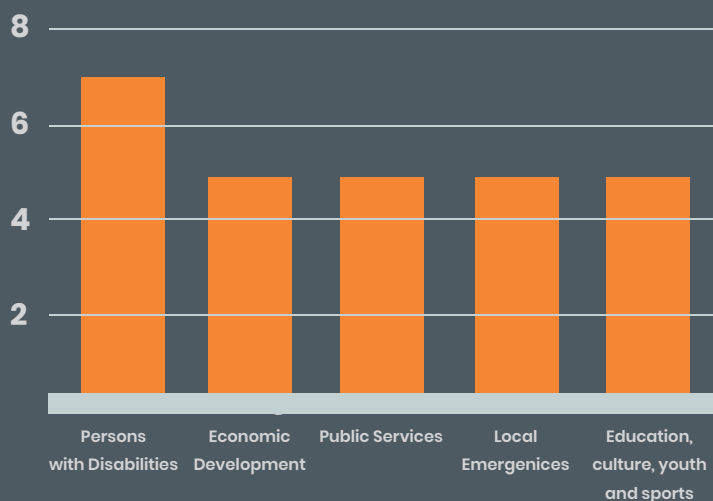
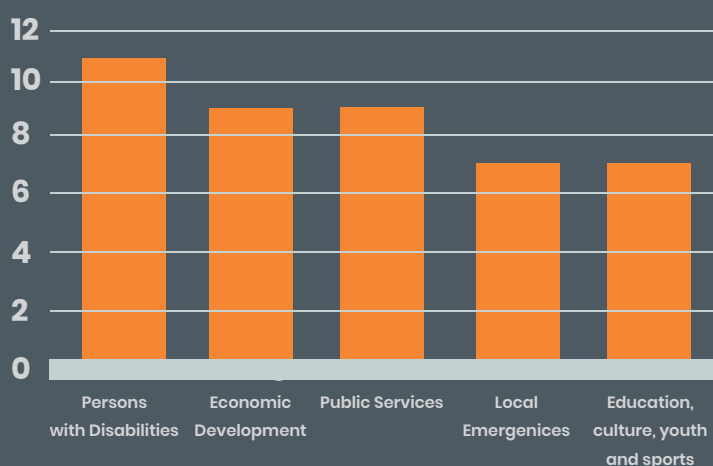


Figure 3. Other (Auxiliary) Committees created in 2019 taken from the Ministry of Local Governance (MLGA) "Municipality Functionality Report



address this discrepancy directly by advocating for the creation of additional consultative (and auxiliary committees) that deal with gender-equality.

In the absence of (financial) resources for the informal women's groups, consultative (and auxiliary) committees, as legitimate instruments, can play a better role in increasing inclusiveness and discussion of gender issues in public

⁴⁶ MLGA has published the March 2020 edition of the "Municipality Functionality Review", however data on various aspects (including the number of consultative committees established) was not available due to Municipalities not having sent them over to the MLGA.

consultations. Informal women caucus' at the local level (and women municipal members in general) can mobilize and draft proposals for the creation of consultative and auxiliary committees that exclusively deal with gender-equality. In turn, these committees can produce legitimate proposals that affect the trajectory of sectorial policies through a gender-mainstreaming perspective. An example of this can be the creation of consultative committees on gender-equality, where, local women caucus', with the participation of women from local communities, can identify a number of policy issues that require attention.

A consultative committee on gender-equality can deal with a number of sectorial policies where women in local contexts face discrimination, such as: girls access to education, women access to adequate maternal and infant healthcare, gender-based violence, and investments to counter women unemployment.⁴⁷ This gives women representatives an effective platform (consultative committee on gender-equality) to discuss, and increased participation of citizens (women) in identifying policy gaps. As such, consultative committees can be vital for drafting policy proposals that may effectively and inclusively address local problems.

Quote

“Municipal Assemblies are very important for identifying problems. It is very important to link together local and central women as the core of the problems come from the municipal level”

MONITORING OF EXISTING LEGISLATION

The effective mobilization of competencies can only be compelling only once it is coupled with vigorous oversight and monitoring of gender-mainstreaming implementation. Legislative supervision plays a critical role in ensuring that legal benchmarks set out by the LGE are implemented and enshrined in the work of public institutions.⁴⁸ The successes of effective representation and public participation are dependent on legislative oversight. A clear example of the existing gap between gender-mainstreaming and supervision of implementation

⁴⁷ A gender perspective can also be integrated in areas that are seldom thought to be discriminatory towards women, such as: capital investments. Consultative committees on gender-equality can filter a range of sectorial policies through a gender lens in order to ensure that basic needs of citizens and fundamental rights are taken into consideration.

⁴⁸ Including other legislation protecting and promoting women's rights (e.g. anti-discrimination law, labour law, law against domestic violence, etc)

has been the case of Gender-Responsive budgeting (GRB).⁴⁹ Central institutions and municipal organs continue to fall short on gender-based data-gathering and the identification of gender-based interventions in line with the requirements of the LGE.⁵⁰

At the national level, the Committee for Human Rights, Gender Equality, Missing Persons and Petitions can play an important role and exercise oversight of gender-mainstreaming implementation. Parliamentary committees are not only responsible for dealing with tasks set by the Assembly of Kosovo, but they may also undertake work within their scope identified in the Rules of Procedure.⁵¹ Given the committee's cooperation with the Ombudsperson Institution, women MPs need to employ a more integral role in ensuring that recommendations provided by the OI are addressed and implemented. This not only ensures that gender-mainstreaming recommendations provided by the OI are institutionalized, but also allows women MPs-through the committee- to map out additional actions to be undertaken in cooperation with local authorities in addressing these issues. In this sense, the committee will not simply serve as a tool utilized by the Assembly to carry out specific tasks, but it can be mobilized as an advocacy instrument to produce additional measures that improve gender-mainstreaming.

The initiative of women MPs through the Committee for Human Rights, Gender Equality, Missing Persons and Petitions can be instrumental in complimenting the work of Assembly members at the local level. Similar to the work of women MPs, Municipal Assembly members can utilize their influence in Assembly budget committees to advocate and push for better gender-responsive budgeting across sectorial directorates. Deliberations in the budget committee are vital for ensuring that Municipal spending is in line with legal benchmarks identified in the LGE. If municipalities fail to implement inclusive budgeting based on gender data-gathering, women MPs can weigh in through the work of the Committee for Human Rights, Gender Equality, Missing Persons and Petitions.

Quote

“Women should be consulted when drafting laws.”

⁴⁹ Balkans Group Outreach Discussions with Elected Women Representatives, January 2020

⁵⁰ Ibid.

⁵¹ Rules of Procedure of the Assembly of the Republic of Kosovo, Article 62(1)

An important role can be the review of sanctions in municipalities where gender-based data-gathering does not occur in line with the LGE.⁵² MPs may build cases against lack of gender-responsive budgeting (and data-gathering) in municipalities (or national institutions) and address them through the Agency for Gender Equality (AGE).⁵³ As set out in the Rules of Procedure of the Kosovo Assembly, committees have competencies in inviting institutional representatives for deliberation.⁵⁴ The committee may summon the Minister of Finance, mayors or Municipal directorate heads to discuss issues pertaining to lack of gender-based budgeting. As such, the chain of monitoring from the local level can yield tangible changes if it is in cooperation with central-level women MPs.

Quote

“Activism at the local level has introduced policies that improve the role of women. If there is cooperation with women MPs, the situation will improve even more”

Monitoring the implementation of the requirements stemming from LGE is thus at the core of national and local gender-mainstreaming cooperation. The chain of monitoring from the local level can be instrumental in triggering mechanisms at the national level that can affect policy-change. However, this can only be functional and produce results if women representatives engage proactively, at both levels. If women MPs do not exercise their duties effectively through Assembly committees, concerns and deviations which are noted at the local level may be left unchanged. Municipal bodies (directorates) which do not gather data on the basis of gender, have no objective grounds of conducting effective gender-responsive budgeting. If municipal assembly members do not effectively communicate these violations, MPs will not be aware of cases where legal action is required. In turn, the cycle of not prioritizing gender-responsive budgeting continues and local and national institutions resume the bypassing of legal requirements derived from the LGE.

At the same time, there is a need for greater awareness in maximizing the potential of the Committee for Human Rights,

⁵² The law on Gender Equality sets out punitive provisions (Article 23) in cases where there are violations of provisions of the law. In relation to Article 5 (which includes gender-based data-gathering as a legal requirement for public institutions), the law sets out that: “the competent court shall develop a violation procedure and shall impose sanctions”

⁵³ According to the LGE, the Agency for Gender Equality “cooperates with public institutions and relevant officials for gender equality in the ministries and municipalities to ensure implementation of the provisions of the present Law”.

⁵⁴ Rules of Procedure of the Assembly of the Republic of Kosovo, Article 65(4)

Gender Equality, Mission Persons and Petitions. Given that gender-equality is constitutionally enshrined as a basic and fundamental premise of “the democratic development of the society”, the committee should become a permanent oversight body and as such there needs to be a serious consideration of changing the legal basis of the committee into a permanent one.⁵⁵ This would result in a much needed legal check which would ensure that all laws undergo proper scrutiny in terms of whether they are in line with the benchmarks for gender-equality.

On one hand, the constitution establishes gender-equality as an overarching value underpinning democratic development in Kosovo. On the other hand, the LGE demands that gender-mainstreaming be an integral component of all public policy processes and institutions. The failure to substantialize these benchmarks through a committee with a permanent mandate, is why gender-equality continues to be a lackluster reality. The roles of the Agency for Gender Equality (AGE) and Ombudsperson Institution (OI) are clearly not enough in ensuring that public institutions adhere to the provisions of the LGE. What is required however, is that the highest legislative organ in the country (the Kosovo Assembly), extends the mandate of the Committee for Human Rights, Gender Equality, Mission Persons and Petitions into a permanent one which reviews every law on the basis of human rights and gender-equality standards.

Quote

“It is necessary to exchange experiences between the assemblies of different municipalities not only of the same region”

⁵⁵ Constitution of the Republic of Kosovo, Article 7(2)

CONCLUSION

Gender-mainstreaming requirements stemming from the LGE continue to face significant implementation hurdles in Kosovo. Public institutions have repeatably failed to integrate gender-perspectives in their policy planning as well as conduct comprehensive policy reforms based on gender disaggregated data. Lack of cooperation among political representatives across different levels, minimal inclusion of citizens in decision-making and lack of continual monitoring of gender-mainstreaming continue to be among the most accentuated challenges hindering the fulfilment of the legal requirements in line with the LGE.

Political representatives have an indispensable role as change agents in institutionalizing gender-mainstreaming across sectorial policy-making in Kosovo. Despite the current inefficiencies, there are ample legal instrument available for municipal assembly members and MPs to use in order to address this lack of implementation. As argued extensively, the Law on Local Self-Government, the Law on Gender Equality and the Law on MP Rights and Responsibilities provide valuable tools for political representatives to deepen the inclusiveness and effectiveness of national and local policy-making. In order to ensure lasting implementation of gender-mainstreaming across sectorial policies, political representatives are required to engage in a cycle of *ensuring effective representation, public participation in policy-making and monitoring of existing legislation*.

Cooperation between municipal assembly members and MPs in the design of legislation is crucial for achieving effective representation. Women municipal Assembly members should advocate for the inclusion of gender-perspectives throughout the design of local policies. In cases where municipal acts are not designed for the sole purpose of gender-equality (e.g a possible regulation on procedures for gathering gender dis-aggregated data), municipal members should prioritize amending/designing other acts through adding a gender perspective (as in the cases of Istog and Decan).

Safeguarding the public participation of citizens supplements the inclusive design of policies. Consultative committees and periodical meetings with citizens remain a relatively unused mechanisms which can substantially impact the level of gender-mainstreaming. Through the creation of 'Gender-Equality' consultative and auxiliary committees, municipal members, in close discussion with citizens, can review the sectorial policies of municipal directorates vis-à-vis their practical gender ramifications.

Monitoring of the implementation of both effective representation and public participation is the overarching process that ensures sustainable gender-mainstreaming across institutions and levels. As clearly outlined in the LGE, gender-mainstreaming The Parliamentary Committee for Human Rights, Gender Equality, Mission Persons and Petitions is of central importance in this case. The committee's relevance -if turned to a permanent committee- can be of vital importance in filtering all law-making processes through a gender perspective (in line with the criteria set in the LGE).

Women political representatives must use these available legal instruments in order to institutionalize this cycle. Representation, public participation and monitoring of legislation are vital mechanisms that ensure the sustainable development of gender-mainstreaming as a cross-cutting priority across law-making or policy-development.

WOMEN REPRESENTATION: INFLUENCING POLICYMAKING AND FOSTERING OUTREACH

ROUNDTABLE CONCLUSIONS

Balkans Group has organized seven rounds of consultations throughout Kosovo with women municipal assembly members and women members of parliament of Kosovo. In addition, BPRG held roundtables with elected women, decision-makers and media representatives to enhance the public reach of gender-responsive agendas and activities.

The activities aimed at building relationship between women representatives from local and national levels and other important actors, in particular the media. However, discussion brought light on major gaps and difficulties for women representatives. The diverse observations and constructive debates generated numerous conclusions, which are listed below, that require the attention of all actors, institutions, policymakers at all levels, media and donors, in order to improve the role of women in politics and decision-making, and create a more favourable environment for gender-mainstreaming.

THEREFORE, IT IS OF UTMOST IMPORTANCE TO RECOGNIZE THAT:

- 1** Political parties should prioritize and develop a more inclusive and equal representation for women, by instituting a quota (of 50 per cent) in line with the law on Gender Equality. To strengthen their internal democracy, parties should safeguard the role of women in decision-making structures. They should review the Law on General Elections to align it with the Law on Gender Equality.
- 2** The Women Caucus should earn a more formal role in the assembly, at least organizationally. Financial resources should be allocated in establishing an operational budget for the Women Caucus, allocate an office and increase human resource capabilities to support their activities.
- 3** Male Members of the parliament should actively support and endorse the work for the Women Caucus. Advocacy for gender-equal policymaking should not be perceived to belong exclusively to the women.
- 4** There is a need for direct donor or/and institutional support to enhance the impact, expand the scope and involvement of the women caucus in policymaking, implementation and monitoring of laws, advocacy and outreach across the country.

- 5** Non-governmental organizations (NGOs) and the media should focus more closely in scrutinizing the work of Municipal Assemblies.
- 6** Create an association –a nationwide elected forum– with women MPs and municipal assembly members with an inclusive geographical representation across the country. This association should engage directly in promoting local and national gender-responsive policymaking through:

Promoting and pushing for increased women participation in public consultations in the mapping of policies in line with the Government Regulation on Minimum Standards for the Public Consultation Process. The Government of Kosovo should task the Office for Good Governance (OGG) to develop an inclusive national strategy for the participation of women in public consultations.

Identifying policy-needs based on gender considerations at the local and national level.

Shaping policy-proposals based on gender-considerations that arise from the inclusion of women in public consultations.

- 7** The Ministry of Finance should be more demanding and employ a more central role in overseeing the process of gender-responsive budgeting at the national and local level; their officials and finance/budgetary personal across the institutions should be trained on gender-responsive budgeting.
- 8** The Ministry of Finance, in cooperation with the Ministry of Local Governance Administration should demand and condition approval of Municipal budgets and projects if public consultations and participation of women did not meet the criteria.
- 9** Members of Parliament should be provided with training in gender-responsive budgeting to increase their capacities for monitoring and more effective oversight the government ministries and agencies.
- 10** The donor community should provide job training for women municipal assembly members and MPs.
- 11** The Agency for Gender Equality, in cooperation with the Kosovo Agency of Statistics, should employ a stricter monitoring role in the gender-based data collection of Municipalities and Government institutions. Municipal directorates are required to gather gender-based in cooperation with Gender Equality Officers (GEOs). If gender-based data collection is not carried out by local and central institutions, sanctioning mechanisms should be upheld as outlined in the Law on Gender Equality.

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WOMEN IN POLITICS & DECISION-MAKING

BPRG | Balkans Policy
Research Group

The Balkans Policy Research Group is an independent, regional think-tank based in Prishtina, Kosovo. We provide timely policy analysis and recommendations on a wide array of state building issues; institutional and democratic consolidation; minority integration and good neighbourly relations: European integration and policy change. We have decades of experience in policy reporting and development, strategic thinking and advocacy with governmental, international and non-governmental organisations.

Our rigorous, detailed, impartial reporting, always based on in-depth fieldwork, is the core of our work. We go beyond mainstream positions and seek to make change through creative, feasible, well-measured and forward-looking policy recommendations with the aim of helping develop strong, vibrant democracies, prosperous states and societies based on rule of law in the Western Balkans.

We engage in high-level advocacy, domestically, regionally and internationally, impacting policy discussions and options with regard to the home affairs and European policies toward the Western Balkans.

Balkans Group has developed other tools and platforms to achieve this change:

The Policy Dialogue promotes Kosovo's domestic dialogue, cohesion and reform-making agenda.

The Policy Forum (a Think-Tankers High-level Advocacy Forum) committed to enhancing the dialogue between the civil society and the institutions.

The Kosovo Serbia Policy Advocacy Group (a forum for Cross-Border Civil Society Cooperation) that aims to communicate, promote and enhance dialogue toward full normalisation between Kosovo and Serbia, and their societies.

Women in Politics promotes the empowerment of women and girls; their security and inclusiveness; and is committed to strengthen the Women Caucus' impact and reach throughout Kosovo

The Dialogue Platform promotes the dialogue process between Kosovo and Serbia, by informing the wider public and generating debate about the agreements, benefits and challenges of the Dialogue.

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WOMEN IN POLITICS & DECISION-MAKING