



# Dealing with the Past Principles

**Principle: Public Discourse on Dealing with the Past (DwP) should be evidence-based**

Case study



## Dealing with the Past Principles

Dealing with the Past Principles is a civic initiative, promoted by an informal coalition of 4 organizations and an expert: Humanitarian Law Center Kosovo, Kosova Rehabilitation Center for Torture Victims, Integra, Youth Initiative for Human Rights and Nora Ahmetaj. The group has taken a joint initiative to design and approve a set of principles that will inform and guide political and public figures on how to deal with victims, survivors, the painful past and historical narratives. The initiative aims to prevent harmful discourse and actions related to the conflict legacy and will serve as a reference document, where anyone who violates his/her principles should be held morally responsible. Therefore, the aim is to apply these principles and respect the values and feelings they embody, in order to ensure that victims and survivors are not harmed and that actions related to dealing with the past will contribute to the reconciliation process.<sup>1</sup> Now that the principles have been developed and organized, as well as well explained, it is a crucial that they be presented to the general public and promoted correctly. We believe that one way to get people to understand the importance of principles is to talk about the damages, consequences and pain that can be caused in situations where principles are violated. Therefore, the coalition will publish some analysis which will be compiled by the The Humanitarian Law Center Kosovo (HLC Kosovo) and we will try to bring concrete examples from the past where the principles have been used properly or even misused. One of these principles is "Public Discourse on Dealing with the Past (DwP) must be evidence-based".

### Public discourse on DwP should be evidence-based

The public discourse used in the context of Dealing with the Past should be based exclusively on evidence and verified information. Any false claim or assumption or false news can severely damage efforts to establish an accurate understanding of what has happened in the past. This can lead to misinterpretations of the past, denial of crimes or unfounded accusations. Also, this will further aggravate tensions and negative feelings among members of a community or between communities. Therefore, information related to the conflict, victims and damages in particular, must be verified before they become public.

### Public Discourse

Discourses are common, structured ways of speaking, thinking, interpretation and representation of things to the world. Public discourse is when individuals discuss issues faced by their community, the purpose of which is to find common grounds, which means speeches, publications and other statements made for the purpose of the public good.<sup>2</sup> Its purpose is to seek fair answers to public questions, so that the state and individuals can direct their actions as far as possible in line with justice, the common good of people and at the same time have common interests of citizens within the community.

In the framework of the purpose of this project and this principle in particular, HLCK has taken the publication of a picture by a member of the Assembly of Kosovo as a case study, who claimed that the picture showed rape scene of a Kosovar woman by Serb forces during the recent war in Kosovo. The need to establish and respect the "Public discourse on dealing with the past must be evidence-based" principle is best explained by this case.

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<sup>1</sup> [Principi Eng \(yihr-ks.org\)](http://PrincipiEng(yihr-ks.org))

<sup>2</sup> [Dialogue and Discourse, Dialogue and Discourse Resource Page – Southern New England \(compact.org\)](http://DialogueandDiscourse,DialogueandDiscourseResourcePage–SouthernNewEngland(compact.org))



## The publication of the picture in the Assembly

On May 16, 2019, during a session held in the Assembly of Kosovo, a member of the Assembly (MP) presented a picture to journalists which according to her was evidence of recent war crimes in Kosovo. The picture, which had onerous content, depicted a rape scene, in which a woman was being raped by several people, in the presence of her family members. According to the MP, such an act was committed by Serbian soldiers, who forced the relatives of the victim to watch the act of rape. The MP said that the picture was produced by a human rights activist, namely the Council for the Protection of Human Rights and Freedoms (CDHRF), in 2003. In her media statements, respectively in an interview for KosovaPress, she said that the woman in the picture is still alive and is now 50, while at the time she was raped she was 35. The MP claimed that this picture was found in a camera of a Serbian soldier who was found killed and that UNMIK and EULEX had knowledge about the case.<sup>3</sup> Immediately after the publication of the picture, in a live stream for Info Magazine - Klan Kosova, she said that she had contacted the victim's family and had received permission to publish the picture.

However, few hours after the publication, various media and portals testified that the same picture was circulating in foreign online sites and the Kallxo.com portal had written about this, explaining that the picture search in Google shows that it was uploaded on a web site that mostly hosts pornographic content. It is also found on several other pages where it is described as a crime committed by US soldiers against Iraqi women.<sup>4</sup> Several other portals have also posted stories about the same, including Telegrafi, which through Google search realized that the picture revealed by the MP raises suspicions that it has nothing to do with the recent war in Kosovo.<sup>5</sup>

Although the media produced evidence that disputed the authenticity of the picture, the MP in an interview with RTV Dukagjini, nonetheless said that she had published the picture earlier, once in an international conference held at the Government of Kosovo, where she did not allow filming thereof and once again in a conference held at the Dit 'e Nat' restaurant. According to her, the picture was authentic and she had received the same from the victim's family and from a reliable institution. Regarding the source and the crime scene, she said that she would talk to the prosecutor, with whom she had already established contact. She said that she had published the picture now, because there is currently an atmosphere where one could speak up and the appropriate moment to witness the genocide, because other times when she had discussed this issue, people turned a blind eye. She denied that the picture was taken from the internet, stating: "I do not think that is true and I can never believe it. Public is being deceived by those who want to deny this, and I stand by the truth, and this will be proven by the Special Prosecution." In another statement on T7 television, on the evening of May 16, she again stated that she knew the victim, also that she had obtained her permission to publish, and denied the fact that the picture could have originated from an adult site.

On the same day, The Special Prosecution of the Republic of Kosovo issued an announcement through its spokesperson, addressed to the media, where it stated that an investigation would be opened and will invite the MP to provide information about the victim, whom had claimed to be alive, as well as to submit the picture and evidence she claimed to have. According to the announcement, they learned about the existence of this evidence only after the publication of the picture by the MP, since so far there was no information about such a picture, either by the MP or by anyone else. At the same time, the Prosecution called on all people who are in possession of evidence that may be relevant to the identification of potential perpetrators of war crimes-related offenses to bring them to the Special Prosecution Office, as evidence and testimonies must be to be handed over to the prosecution and the police directly and not through the media and parliamentary sessions.<sup>6</sup>

The next day, in her interview with the Special Prosecution, the MP gave contradictory statements compared to the previous day, which were confirmed by the case Prosecutor, during the press release given immediately after the interview.<sup>7</sup> In the Prosecution, the MP had stated that she had been in possession of this picture since 2003, when she was chaired the Parliamentary Committee for Missing Persons. As chairwoman of the Commission, she had received a phone call from an

<sup>3</sup> Brovina presents evidence that a woman was raped during the war in front of her family (online video), KosovaPress, 16 May 2019, <https://www.youtube.com/watch?v=tQYTFYwnNx8>

<sup>4</sup> Kallxo.com, 16.05.2019, <https://kallxo.com/shkurt/fotografia-ge-e-publikoi-flora-brovina-gjendet-e-publikuar-ne-faqe-te-huaja-online/>

<sup>5</sup> Telegrafi.com, 16.05.2019, <https://telegrafi.com/fotografia-ge-u-publikua-nga-deputetja-flora-brovina-nuk-eshte-e-lufte-se-kosoves-foto/>

<sup>6</sup> Prosecution initiates investigation over a picture published by Flora Brovina, (online video), RTK, 16 May 2019, <https://www.youtube.com/watch?v=gh1L4t7tatM>

<sup>7</sup> Prosecution speaks about the case of the picture produced by Brovina, (online video), KosovaPress, 17 May 2019, <https://www.youtube.com/watch?v=0f7zq3TKfdo&t=277s>



## Case study

### The publication of the picture in the Assembly

CDHRF activist from Gjakova, whose name she did not remember, and who had told her that he had found a picture on the camera of a killed Serbian soldier. The activist had told her that she could use the picture and that the crime is likely to have been committed in a place in the villages between Gjakova and Deçan. The sealed envelope with the picture was brought to her by the Deputy Chairwoman of the Commission, Mevlyde Saraçi and they opened it together. According to the MP, the latter was aware of the case and that she had told her that the woman was 35 years old. The MP contradicted the statement entered a day before, saying that she did not know who the victim was and that she had not personally obtained the consent of the victim and her relatives for the publication of the picture. Asked on how she commented some allegations that the picture may have originated in Iraq, she said that she was shocked by this because she never thought anyone could deceive her by bringing her such a document.<sup>8</sup>

On the same day, after the interview, she spoke publicly to the press and apologized to the people, particularly to the abused women and their families for the inconvenience she had caused with this picture. She then continued to stand by her statement of the day before regarding the way she had received the picture, where she was contacted by the CDHRF activist, and the envelope was personally brought to her by the former MP and Deputy Chairwoman of the Parliamentary Committee for Missing Persons, Mevlyde Saraçi.<sup>9</sup>

The latter in a press conference, held a few hours after the statement of the MP, denied to have handed her the envelope with picture and claimed that she had never been a deputy chairwoman of this Commission. She said that her name has been abused, so she felt compelled to act through justice authorities and that she would file defamation lawsuits against the MP and pursue all legal avenues. Among other things, she said that she did not bring any document to the Assembly privately, while the official documents are in the Assembly of Kosovo and can be verified.<sup>10</sup>

According to the Special Prosecutor in charge of investigating the case, during an interview to Kallxo.com, an expertise of the picture had to be made, in order to make a comparison between the presented picture and those published online. The picture was sent for expertise to the Kosovo Forensic Agency, which later found that the picture presented by the MP does not belong to the recent war in Kosovo.<sup>11</sup>

## Consequences caused by the publication of the picture

The publication of this picture provoked numerous reactions from public figures, citizens and victims of sexual violence in Kosovo. Initially they were against the publication of the picture and demanded that it should be deleted from the media, without questioning the authenticity of the same. A large number of public figures reacted by giving statements immediately on the same day the picture was published.

The event was also commented on by the then Prime Minister Ramush Haradinaj, who pointed out the fact that all those people who denied the war crimes were removed from the state institutions and moreover all those who committed these crimes, belong in prison, regardless of who and where they are.<sup>12</sup>

Former President Atifete Jahjaga, expressed an extraordinary revolt through a post on Facebook. According to her, such an action was unethical, unlawful and inhumane and that “The publication of that picture re-traumatizes the victim and all sexual violence survivors during the war in Kosovo and discourages them from speaking up the telling truth about the crimes that were committed on their bodies.” She also called on the media to remove the picture from their websites and justice institutions to address the issue and take appropriate action in line with the law.

While in a press release issued by the Kosova Rehabilitation Center for Torture Victims, it was reported about a large number of phone calls and reactions which they received from victims and survivors of sexual violence in Kosovo during the conflict, caused of the publication of the picture. “Survivors of sexual violence during the war in Kosovo were

<sup>8</sup> What did Brovina testify in the prosecution? (online video), Klan Kosova, 17 May 2019, <https://www.youtube.com/watch?v=caiQNL-g54U>

<sup>9</sup> Flora Brovina changes her statement about the picture, (online video), Klan Kosova, 17 May 2019, <https://www.youtube.com/watch?v=Gv8Akosz2Ww>

<sup>10</sup> Mevlyde Saraçi, holds a media conference about the statements of the MP, (online video), Arbresh.info, 17 May 2019, <https://www.youtube.com/watch?v=PTZA5kgth3A>

<sup>11</sup> Kallxo.com, 05 June 2019, <https://kallxo.com/shkurt/konfirmon-prokuroria-fotoja-e-flora-brovines-nga-interneti/>

<sup>12</sup> Prosecution initiates investigation over a picture published by Flora Brovina, (online video), RTK, 16 maj 2019, <https://www.youtube.com/watch?v=gh1L4t7tqtM>



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extremely worried and indignant after the publication of these images.”<sup>13</sup> This center also appealed to remove the picture and according to them, the presentation of such images in public does not help the war survivors of sexual violence or their families. In an interview conducted by HLCK with a representative of this Center they said that “the survivors themselves have been sad and confused, seeing this as an attack and re-experience of trauma. It came at a time of a campaign to combat the stigma surrounding survivors and to encourage them to apply for recognition of their status. The reluctance of survivors to apply for this status was the immediate effect. ”

MP Mimoza Kusari-Lila commented saying that someone pushed the MP to make this mistake, adding "tonight victims were raped once again".

The British Embassy in Kosovo also reacted to this development, through a post on Twitter saying that it is important for allegations of serious crimes during the conflict to be investigated by competent institutions, above all by prioritizing justice and support for survivors, victims and families, based on the rule of law rather than political opportunism.

The MP's action and the subsequent unprofessional reaction from some media upset the victims and threatened security in Serb-majority areas. The case was reported in the foreign media and was widely reported by the Serb media, who also used headlines that were much more sensational. On Serbian television B92, the headline read, "Prishtina is using pornographic images of Iraq to accuse Serbs of rape."<sup>14</sup> According to Kossev.info, the news that the picture revealed by the MP was taken from a pornographic movie, has disturbed the public not only in Kosovo, but also beyond.<sup>15</sup> The French media also reported regarding this suspicion of the published picture, saying in their headline that the women's rights activist shows the picture to condemn the Serbian rapes, but it is believed to be a picture from Iraq.<sup>16</sup>

### Citizens' reactions to the publication

The constant media coverage during those critical days also affected the citizens, who expressed their dissatisfaction through social media networks. Among other things, they demanded accountability for the event, as the vast majority of them had been affected, disclosing old wounds from which they had been trying to recover for years.

Citizens' dissatisfaction was expressed mainly through comments or various posts on social media networks, both at the moment when the picture was published, and after the MP apologized publicly at the press conference. They were frustrated by the fact that the MP really had many opportunities to speak up about such an event and not wait to report it 20 years after the war. A citizen said that “if the MP had those pictures for 20 years, and did not do anything, doesn't that make her part of the crime as well? In a way, she kept facts that would uncover a crime.” They also commented with insulting and humiliating words against her, for the very fact that she had not verified such information and traumatized citizens with false information, especially on such a delicate topic. Some of them said that this represented a great harm to the victims and their families. Thus, as an example we took two citizens who expressed their indignation. One of them said that "the MP shamelessly tried to misuse the cause of the victims of sexual violence during the war for selfish political purposes." As a result of such publication, another citizen mentioned the social consequences of the same. "Kosovo was the target of a disinformation campaign yesterday, aiming to either undermine efforts to seek justice for war victims, encourage ethnic tensions, or both. The forged picture used in Iraq to claim rape by US soldiers was used by a Kosovo MP who did not verify its source.”

Serbian citizens also reacted to the publication of the picture as an attempt to present the crime as if committed by Serbian forces. The representative of an NGO from North Mitrovica, interviewed by HLCK, stated that the publication of the picture by the MP and the unprofessional reporting by the media in Kosovo, undoubtedly provoked anger and distress. She added that the publication also gave them the opportunity to deny and question all the violent crimes that took place in the recent war in Kosovo, claiming that the evidence against Serb police, army or paramilitary groups are largely fabricated. This is best illustrated by the example of a Serbian citizen who wrote on Twitter, “they stole a part of Serbia with lies. Just wait and the truth will come out! ”

<sup>13</sup> Kallxo.com, 16 May 2019, <https://kallxo.com/shkurt/gkrmt-reagon-ndaj-publikimit-te-fotografise-per-dhunen-seksuale/>

<sup>14</sup> B92.net, 17 May 2019, [https://www.b92.net/eng/news/politics.php?yyyy=2019&mm=05&dd=17&nav\\_id=106854](https://www.b92.net/eng/news/politics.php?yyyy=2019&mm=05&dd=17&nav_id=106854)

<sup>15</sup> KoSsev.info, 17 May 2019, <https://kossev.info/pristina-resolution-on-genocide-a-photograph-and-media/>

<sup>16</sup> Flora Brovina, *militante kosovare des droits des femmes, exhibe une photo pour condamner les viols serbes : en réalité il s'agirait d'une photo d'Irak - Fdesouche*

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As a sign of revolt, on May 20, 2019, a protest march was organized by organizations representing survivors of sexual violence during the war in Kosovo. They were joined by a large number of citizens, as well as many other public figures. The aim was to demand dignified treatment for all survivors and victims of sexual violence during the war in Kosovo, and also demanded the resignation and legal action against the MP who published the picture.

### **Conclusions and recommendations**

From this analysis we can also conclude that the principle "Public discourse on DwP should be evidence-based" is of particular importance and must be strictly observed. As can be seen from the analysis, failure to comply with it undoubtedly affects victims and their families in the first place. This may also cause overall dissatisfaction in society. On the other hand, it contributes to the deterioration of interethnic relations, both within the territory of Kosovo and beyond. In fact, when it comes to the recent war events, similar cases of publication and creation of a discourse that is not based on evidence have occurred and continue to occur in Kosovo.

In order to have as few cases as possible in the future, in the first place we recommend that the "Principles for Dealing with the Past",<sup>17</sup> be observed and adapted by all political and public figures, who deal with events of the past.

Also, we recommend to all holders of public office and the media, to verify data relating to the past before making them public.

At the same time, anyone claiming to possess relevant evidence or information relating to a war crime, must submit it to the competent authorities, namely the prosecution or the police, without making it public. This prevents damage to the evidence for possible criminal proceedings and protects the victims.

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<sup>17</sup> [Principi Eng \(vihr-ks.org\)](http://Principi.Eng(vihr-ks.org))

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