



# Dealing with the Past Principles

**Principle: Gender-based approach should be part of all Dealing with the Past (DwP) processes**

**Case study**



## Case study

### Principles for Dealing with the Past

Principles for Dealing with the Past is a civic initiative, promoted by an informal coalition of 5 organizations and an expert: Humanitarian Law Center Kosovo, Kosovo Rehabilitation Centre for Torture Victims, Integra, Youth Initiative for Human Rights, BIRN, and Nora Ahmetaj. The group has taken a joint initiative to design and adopt a set of principles that will inform and guide political and public actors on how to deal with victims, survivors, the painful past, and historical narratives. This initiative aims to prevent harmful discourse and actions related to the legacy of the conflict and will serve as a reference document, where anyone who violates his / her principles will be held morally responsible. The aim is therefore to apply these principles and adhere to the values and feelings they embody, to ensure that victims and survivors are not harmed and that actions related to dealing with the past contribute to the reconciliation process<sup>1</sup>. Now that the principles have been developed and are organized and well explained, it is crucial to introduce them to the general public and promote them adequately. We believe that one way to get people to understand the importance of principles is to speak about the harms, consequences, and the pain that can be caused in situations where the principles are violated. Therefore, the coalition will publish a number of analyzes prepared by the Humanitarian Law Center Kosovo (FDHK), in an effort to bring forward concrete examples from the past where the principles have been used properly or when they were misused. One such principle is that “Gender-based approach should be part of all Dealing with the Past (DwP) processes”.

### Gender-based approach should be part of all Dealing with the Past (DwP) processes

A gender-based approach should be the baseline of all Dealing with the Past initiatives. Those who have a mandate and mission to work with women and men who have experienced gender-based violence and sexual violence during the Kosovo conflict should aim to improve their lives and wellbeing. The stigma towards survivors of sexual violence from conflict should be challenged in all possible ways.

### Introduction

Sexual and gender-based violence is a violation of human rights<sup>2</sup>. According to the Law on Gender Equality, gender-based violence means “all acts of violence that result in or are likely to result in physical, sexual, psychological, social or economic harm or suffering on the basis of gender, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether it occurs in public or private life<sup>3</sup>”.

Citizens have little knowledge about the victims and survivors of gender-based violence or sexual violence during conflict the, including a lack of information regarding male victims. In society, in general, the idea prevails that the victims of sexual violence are only women. The discussion on rapes and other similar crimes that occurred in Kosovo during the war period is considered taboo and, as a result, direct victims of such crimes find it difficult to testify due to stigma.

There is talk in the public discourse about victims of sexual violence, with claims of approximately 20,000 women raped during the war in Kosovo. Although this number has not been verified, it is nevertheless used continuously by persons in high state positions, as well as by citizens.

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<sup>1</sup> [Principles ENG \(yhr-ks.org\)](#)

<sup>2</sup> Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons, Prevention and Response Directives, May 2003, United Nations High Commissioner for Refugees, Page 10, May 2003, <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=4fcd4fc2>

<sup>3</sup> Law No. 05/L-020 on Gender Equality, Article, paragraph 1.18, Page 3, 2015, [LAW NO. 05/L-020 ON GENDER EQUALITY](#)



Victims and survivors of gender-based violence or even sexual violence during conflict continue to feel prejudiced about recounting their experiences. They have been re-victimized by both society and their families, as a result of stigmatization, as what happened to them was considered shameful by others. Due to this stigma, to this date, we don't have accurate numbers and percentages of all those who have been affected by such forms of rape during the period of conflict in Kosovo. This analysis brings forward positive examples given by both state bodies and various non-governmental organizations towards the recognition of victims of sexual violence and the provision of assistance to them. Undoubtedly, such actions set precedents that should be followed, due to the positive results they have given.

### **The right of victims to recognition and status benefit**

The right of victims of sexual violence to obtain status and rights and benefits was not recognized immediately after the end of the war. This category of victims was initially excluded from the Law (Law on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian Victims and Their Families) which gave status to different categories of victims and as well as respective benefits. Advocacy efforts were required to ensure that this category of victims is recognized and that they enjoy the benefits that they should legally be entitled to.

According to a publication by Amnesty International entitled "Wounds that Burn our Souls" states, among other things, that "domestic laws, to the extent possible, [should] provide that a victim who has suffered violence or trauma should benefit from special consideration and care to avoid his or her re-traumatization in the course of legal and administrative procedures designed to provide justice and reparation<sup>4</sup>."

The purpose of the above law issued in 2011 was to "determine the status, financial support through pensions and special benefits for the categories emerging from the KLA war, which, with their sacrifice and contribution, were crucial factors for the freedom and liberation of the country<sup>5</sup>". However, this law failed to include one of the most sensitive categories affected by crimes committed in the country during the war, namely victims of sexual violence during the war in Kosovo. This exclusion discriminates against these victims, given the level of stigma attached to them. This category needs support, including legal support, in order to acknowledge the suffering and facilitate access to justice.

In 2011, when the law in question was issued, Atifete Jahjaga was President of Kosovo. She had made significant efforts to recognize the rights and suffering of victims of sexual violence during the conflict through the establishment of the National Council for Survivors of Sexual Violence during the conflict. This council was established in March 2014 and concluded its mandate in March 2016. The National Council had a mandate in relation to reparations, legal recognition and access to justice, economic support and empowerment, health care for victims, and awareness-raising to address stigma and discrimination<sup>6</sup>.

However, in terms of advocating amendments to the law, which was deemed discriminatory for victims of sexual violence, various non-governmental organizations gave a significant contribution. A public call was made to Kosovo MPs by the Kosovo Women's Network (KWN), to support the amendments of the law on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian Victims of War and their families, adding as a special category "persons raped during the war". This letter was sent with the reasoning that such a thing "would offer recognition, an end to stigma and restoration of dignity. "Since sexual violence has been used as a weapon of war, women should thus be treated like all victims of war." KWN had also sent a number of various letters, with other civil society groups, with the same request<sup>7</sup>.

In addition, KWN organized a protest with the motto "We don't want flowers, we want justice for women raped during the war." The protest publicly called for legal protection for women raped during the war<sup>8</sup>.

KWN's request was also supported by Amnesty International, an organization that had asked the Kosovo Assembly to

<sup>4</sup> Amnesty International, Wounds that Burn our Souls, <https://www.amnesty.org/en/wp-content/uploads/2021/05/EUR7075582017ALBANIAN.pdf>

<sup>5</sup> Law No. 04 / I-054 on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian Victims and Their Families, 2011, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3305>

<sup>6</sup> UNDP, Dealing with the Past and Reconciliation in Kosovo: A summary of institutions and initiatives, Working Paper, 2017, Prishtina, [https://www1.undp.org/content/dam/kosovo/docs/TJ/ALB\\_TJ\\_Summary\\_of\\_Institutions\\_and\\_Initiatives.pdf](https://www1.undp.org/content/dam/kosovo/docs/TJ/ALB_TJ_Summary_of_Institutions_and_Initiatives.pdf)

<sup>7</sup> Kosovo Women Network, 19.03.2014, Prishtina, <https://womensnetwork.org/wp-content/uploads/2018/11/20140319161908203.pdf>

<sup>8</sup> Koha.net, March 19, 2014, <https://archive.koha.net/?id=27&l=3491>



guarantee the rights of victims of sexual violence during the war in Kosovo. According to Amnesty International, victims felt insecure, ashamed, guilty, depressed and distrustful and, as a result, were denied access to psychological, economic, health and other forms of rehabilitation.<sup>9</sup>

As a result of continued advocacy efforts from all actors above, their proposal was successfully passed in the Assembly of Kosovo, and submitted for voting by the former Speaker of the Assembly of the Republic of Kosovo, Jakup Krasniqi.

With a decision of the plenary session of the Assembly of the Republic of Kosovo, on March 20, 2014, the Law No. 04/L-172 amending Law No. 04/L-054 on the Status and Rights of martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, civilian victims and their families<sup>10</sup> was adopted, adding to its title the phrase “victims of sexual violence during the war<sup>11</sup>”.

According to this law, a victim of sexual violence is a person who has survived sexual abuse and rape in the period from 27.02.1998 until 20.06.1999. A deadline of 5 years for the submission of the application for the realization of the rights of victims of sexual violence was defined, starting from the beginning and formalization of the work of the Government Commission for Recognition and Verification of the Status of Persons Violated during the Kosovo Liberation War<sup>12</sup>.

Feride Rushiti from the Kosovo Rehabilitation Center for Torture Survivors (KRCT) stated in a public hearing of the Health Committee, prior to the adoption of the law, that this period should be extended<sup>13</sup>.

The Commission has officially set February 5, 2018 for the start of the application process<sup>14</sup>, with 2023 as the final year when the victims of sexual violence during the war in Kosovo can submit their applications for the recognition and benefits from other rights under the law.

The status of persons raped during the war goes through the process of recognition and verification, in which victims must submit documents proving the crime committed against them. This process is carried out by the Government Commission for the Recognition and Verification of the Status of Persons Raped during the War, established on April 28, 2017<sup>15</sup>, which determines the requirements and criteria issued through Government bylaws.

At the request of the HLCK in June 2021 addressed to the Secretariat of the Government Commission for the Recognition and Verification of the Status of Persons Raped during the Kosovo Liberation War, the number of victims whose status was recognized as victims of sexual violence during the war in Kosovo was provided. The official response of the Secretariat of the Commission stated that “to date<sup>16</sup> 37 men have been recognized as victims of sexual violence during the war and enjoy the benefits for the category. The application process is running normally. As far as women are concerned, to date the status of victim of sexual violence during the war has been recognized to 922 applicants.”

Feride Rushiti from KRCT, stated in an interview for KultPlus, among other things, that the “silence and stigma about sexual violence in times of war and peace, in a way, has protected the perpetrators from receiving the punishments they deserve, further reinforcing social prejudices<sup>17</sup>”.

The Government Commission for Recognition and Verification of the Status of Persons Raped during the Kosovo Liberation War is also assisted by 4 non-governmental organizations licensed for the provision of assistance in recognizing and verifying the status of victims of sexual violence during the war. These organizations are: Kosovo Rehabilitation Center for Torture Survivors (KRCT), Medica Gjakova, Medica Kosova, and the Center for the Promotion of Women’s Rights

<sup>9</sup> Radio Free Europe, 19 March 2014, <https://www.evropaelire.org/a/25302739.html>

<sup>10</sup> Radio Free Europe, March 20, 2017, <https://www.evropaelire.org/a/25303799.html>

<sup>11</sup> Law No. 04/L-172 on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Victims of Sexual Violence during the War, Civilian Victims and Their Families, 2014, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=9436>

<sup>12</sup> Law No. 04/L-172 on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Victims of Sexual Violence during the War, Civilian Victims and Their Families, 2014, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2793>

<sup>13</sup> Kallxo.com, 12.06.2013, <https://kallxo.com/gjate/viktimat-e-dhunimit-te-dallohen-nga-viktimat-civile/>

<sup>14</sup> Guide to the process of recognition and verification of the status persons raped during the Kosovo liberation war, Page 17, <https://mpms.rks-gov.net/wpdm-package/udhezues-per-procesin-e-njohjes-dhe-verifikimit-te-statusit-te-personave-te-dhunuar-gjate-luftes-clirimtare-te-Kosovo-pdf/?wpdm=4850&ind=VURiW4taVUVTFDDi1JgUFJPOQVTSU4gRSBOSK9ISkVTIERIRSBWRVJJKILSU1JVCBUw4sgU1RBVFVTSVQgVMOLIFBFUINPTkFWRBSBUw4sgREhVTIVBUiBHSkFUw4sgTFVgVMOLUyDDh0xJUKINVEFSRSBUw4sgS09TT1bDi1MucGRm>

<sup>15</sup> Ministry of Labor and Social Welfare, 28.04.2017, [Government Commission for the Recognition and Verification of Persons Raped during the War is established - MLSW \(rks-gov.net\)](https://www.mls.gov.net/)

<sup>16</sup> June 2021

<sup>17</sup> KultPlus, 03.04.2018, <https://www.kultplus.com/intervista/feride-rushiti-dhuna-seksuale-e-luftes-ka-gene-njera-prej-heshtjeve-te-medha-te-historise-son/>



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(QPDG), which have the mission of providing assistance to this category<sup>18</sup>.

Through social media, the Commission has given guarantees to all victims who have experienced sexual violence and who will apply for recognition of their status as victims, of complete confidentiality of applicants and their cases, and that the data submitted in the application will in no way be available to the general public. The Commission had also called on all institutions and the society to address this wound of war with the necessary sensitivity and high human dignity, with respect for the victims and their families.<sup>19</sup>

Without the assistance of organizations and the adequate functioning of the Government Commission, this process of recognizing and obtaining the status of victims and their rights would have been difficult.

In 2018 KRCT drafted the “Guide for the process of recognizing and verifying the status of persons raped during the Kosovo liberation war”, in cooperation with other governmental and non-governmental actors, with the main goal of ensuring that victims of sexual violence in the Kosovo war are informed of all their rights guaranteed by law, the application procedure, and all necessary criteria for application. According to this Guide, the aim was to harmonize and coordinate between institutional mechanisms and NGOs regarding the recognition of status, referral to service providers, protection, rehabilitation and reintegration of victims of sexual violence during the war in Kosovo<sup>20</sup>.

Despite the significant challenges over the years, women’s organizations have considered 2018 a historic year for the cause of survivors, calling it “The year of recognition of the status of victims of sexual violence<sup>21</sup>.”

Also, according to Dr. Denis Mukwge, Nobel Peace Prize laureate in 2018, in a meeting hosted by the Government Commission for Recognition and Verification of the Status of Persons Raped during the war “Kosovo will serve as a model for other countries that have gone through similar situations in armed conflict<sup>22</sup>”.

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Although the actions of all the above-mentioned actors had a significant impact on the realization of the rights of victims of sexual violence, prejudice against this category could also be observed. Throughout the advocacy process of various activists and organizations, societal prejudices against this category have always been openly expressed. This is also evidenced by the threats made to one of the most vocal activists who had advocated for the recognition of this special category of war victims.

Human rights activist Nazlie Balaj was the main target of the attack. She had personally received a threatening letter left on the doorstep of her apartment with the text written on it: “Please do not defend shame, otherwise a bullet will await you straight in the head<sup>23</sup>”.

In addition to the need for legal recognition of this category, as for all categories, more should be done also to prevent threatening and stigmatizing actions against them.

Humanitarian Law Center Kosovo, together with the Youth Initiative for Human Rights in Kosovo, responded to such an action against the activist, expressing concern over the threat made against Nazlie Balaj<sup>24</sup>.

However, fortunately, such prejudices are being tackled by many organizations which have a mandate and mission to improve the lives of victims of sexual violence.

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<sup>18</sup> Guide to the process of recognition and verification of the status persons raped during the Kosovo liberation war, Page 16, <https://mpms.rks-gov.net/wpdm-package/udhezues-per-procesin-e-njohjes-dhe-verifikimit-te-statusit-te-personave-te-dhunuar-gjate-luftes-clirimtare-te-Kosovo-pdf/?wpdm=4850&ind=VURiW4taVUVTFDDi1JgUFJQOVTSU4gRSBOSk9ISKVTIERIRSBWRVJRRkILSU1JVCBUw4sgU1RBVFVTSVQgVMOLIFBFUINPTkFWRRSBUw4sgREhVTIVBUIBHskFUw4sgTFVGVMOLUyDDh0xJUKINVEFSRSBUw4sgS09TT1bDi1MucGRm>

<sup>19</sup> Facebook Post, 2019, [https://www.facebook.com/permalink.php?story\\_fbid=400707637443335&id=343412826506150](https://www.facebook.com/permalink.php?story_fbid=400707637443335&id=343412826506150)

<sup>20</sup> Guide to the process of recognition and verification of the status persons raped during the Kosovo liberation war, Page 7, <https://mpms.rks-gov.net/wpdm-package/udhezues-per-procesin-e-njohjes-dhe-verifikimit-te-statusit-te-personave-te-dhunuar-gjate-luftes-clirimtare-te-Kosovo-pdf/?wpdm=4850&ind=VURiW4taVUVTFDDi1JgUFJQOVTSU4gRSBOSk9ISKVTIERIRSBWRVJRRkILSU1JVCBUw4sgU1RBVFVTSVQgVMOLIFBFUINPTkFWRRSBUw4sgREhVTIVBUIBHskFUw4sgTFVGVMOLUyDDh0xJUKINVEFSRSBUw4sgS09TT1bDi1MucGRm>

<sup>21</sup> Koha.net, 19.06.2018, <https://www.koha.net/arberi/100095/hellip-duam-drejtasi-per-grate-e-dhunuara-gjate-luftes/>

<sup>22</sup> Koha.net, 11.11.2019, [Nobelisti për Paqe lavdëron modelin e Kosovës për trajtimin e rasteve të dhunës seksuale gjatë luftës - KOHA.net](https://www.koha.net/nobelisti-per-paqe-lavderon-modelin-e-kosoves-per-trajtimin-e-rasteve-te-dhunes-seksuale-gjate-luftes-koha.net)

<sup>23</sup> Telegrafi, 21.03.2013, <https://telegرافي.com/letra-ndaj-aktivistes-balaj-mos-e-mbroje-turpin-se-tpret-plumbi/>

<sup>24</sup> YIHR KS, <https://yih-ks.org/denohet-kercenimi-me-vdekje-ndaj-aktivistes-se-te-drejtave-te-njeriut-znj-nazlie-balaj/>



## Recommendations

We recommend that the “Principles for Dealing with the Past<sup>25</sup>” are adhered to and adopted by all political and public actors involved in dealing with the past.

According to the Law on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Victims of Sexual Violence of War, Civilian Victims and Their Families, a victim of sexual violence is a victim who has survived sexual abuse and rape in the period from 27.02.1998 until 20.06.1999. We thus recommend an extension to this period, at least until 2000, as crimes of this nature may have been occurred, because of the war in Kosovo, even after the mentioned date.

According to the Law on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Victims of Sexual Violence of War, Civil Victims and Their Families, the deadline for submitting applications for the realization of rights is 5 years from the beginning and formalization of the work of the Government Commission for the Recognition and Verification of persons raped during the war. Therefore, we recommend that this deadline be further extended, in order to give additional time to victims to submit their applications.

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<sup>25</sup> [Principles ENG \(yihf-ks.org\)](http://yihf-ks.org)

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