



# Dealing with the Past Principles

**Principle: Equality, Inclusion and Reconciliation  
Should Be Promoted By All**

**Case studies**



## Dealing with the Past Principles

Dealing with the Past Principles is a civic initiative, promoted by an informal coalition of 5 organizations and an expert: Humanitarian Law Center Kosovo, Kosova Rehabilitation Center for Torture Victims, Integra, Youth Initiative for Human Rights, BIRN 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 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 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 “Equality, inclusion and reconciliation should be promoted by all.”

### Equality, inclusion and reconciliation should be promoted by all

Inclusion of victims and survivors is often based on gender, age, ethnicity or race. To achieve reconciliation, society in Kosovo must find a common ground for individuals to show mutual recognition, respect and acceptance, as well as sensitivity to the needs and interests of the other party.

Therefore, to understand clearly the essence of the principle we are promoting in this analysis, we will explain on what basis the rights promoted in this principle are guaranteed and also study some key cases in which the above principle was violated.

## Introduction

In 2017, United Nations Development Program (UNDP), in cooperation with several other partners, published a document, which stated that “Kosovo will fully promote and respect a process of reconciliation between all its communities and their members. It will establish a comprehensive and gender-sensitive approach to dealing with its past, which will include a wide range of transitional justice initiatives.”<sup>2</sup> This obligation, included in this publication, was taken from the 2007 Comprehensive Proposal for the Kosovo Status Settlement, and were incorporated altogether into the Constitution of Kosovo after independence in 2008.

The Constitution of the Republic of Kosovo guarantees and promotes the rights and freedoms of its citizens in general, but also of other non-majority communities in particular, regardless of differences between them. Its second chapter, which governs the fundamental rights and freedoms of the citizens of Kosovo, stipulates that fundamental human rights and freedoms are indivisible, inalienable and inviolable and serve as the basis of the legal order of the Republic of Kosovo. No one shall be discriminated against on grounds of race, colour, gender, language, religion, political or other opinion, and human dignity is inviolable and is the basis of all human rights and fundamental freedoms.<sup>3</sup> These rights are also guaranteed through a large number of international agreements and conventions, including the Universal Declaration of Human Rights<sup>4</sup> of 1948 and the International Covenant on Civil and Political Rights<sup>5</sup> of 1976.

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

<sup>2</sup> UNDP, “Dealing with the Past and Reconciliation in Kosovo: A Summary of Institutions and Initiatives a Working Document”, 2017, quoting the “Comprehensive Proposal for the Kosovo Status Settlement”, article 2.5.

<sup>3</sup> Republic of Kosovo Constitution, Articles 21-24, pages 6-7, [Microsoft Word - Kushtetuta.e.Republikës.së.Kosovës.doc \(rks-gov.net\)](https://www.rks-gov.net/Portals/0/MS/MS%20-%20Kushtetuta%20e%20Republik%20s%20e%20Kosov%20s.doc)

<sup>4</sup> Universal Declaration of Human Rights, 1948,

<https://unmik.unmissions.org/sites/default/files/regulations/03albanian/Ahri/AUniversalDeclarationHumanRightsfinal.pdf>

<sup>5</sup> International Covenant on Civil and Political Rights, 1976, <https://hrrp.eu/alb/docs/CCPR-a.pdf>



Given that these rights are guaranteed by both domestic and international legislation, unequal and undignified treatment of any social category, regardless of distinguishing elements between them, should not be tolerated. Therefore, the following are some case studies, which prove the consequences of unequal treatment of different social groups. Equality, respect and inclusion of citizens, especially the victims and survivors of the last war in Kosovo, serve as the basis for the reconciliation and the foundation of a democratic society.

### **Failure to include the name of a Roma girl in the memorial plaque in Mitrovica**

A bomb had exploded in the green market of Mitrovica on 13 March 1999, where, according to HLC data, 7 people were killed, of whom 3 women and 4 men, while dozens of others were wounded. On the other hand, on the 21<sup>st</sup> anniversary of this incident, on 13 March 2020, a new memorial plaque was erected, which replaced the old plaque, in memory of the victims and the injured of that attack. The narrative of the incident was written on one part of the plaque, with the inscription: "Here, on 13 March 1999, at 14:20, a grenade fired by the barbaric hand of the Serbian army and police took the lives of 6 people and wounded 128 others."<sup>6</sup> The names of six Albanian victims were engraved on the other part of the plaque, but not the name of Elizabeta Hasani, a minor girl from the Roma community.<sup>7</sup>

The failure of the Municipality of Mitrovica to include her name prompted many reactions, but the most vocal among them were two members of the Assembly of Kosovo, Veton Berisha and Albert Kinolli, both representatives of RAE communities, who requested the inclusion of the girl at the memorial plaque erected in South Mitrovica. After his reaction, Albert Kinolli held a meeting with the Mayor of South Mitrovica, Agim Bahtiri, the latter informing him that it was an unintentional mistake made due to the lack of information.<sup>8</sup>

The publicist and civil society activist Shkelzen Gashi also reacted to the omission, saying that he had encountered data inconsistencies during his research on the murders that were committed in Mitrovica green market. He also said that almost every news item in the press at the time reported that one of those killed in that massacre was a five-year-old child.<sup>9</sup>

The Deputy Mayor of Mitrovica, Faruk Mujka, responded to Shkelzen Gashi's reaction and told Kallxo.com that, in fact, the information about the incident, namely that the names for the plaque, were received by the Council for Human Rights and Social Welfare Office. He maintained that the names of only six victims appeared in the encyclopaedic dictionary of the Academy of Sciences and Arts of Kosovo too. This is why he promised that the name of Elizabeta Hasani will be added to the plaque and announced that the Municipality of Mitrovica had in fact, in April 2019, issued a public call through its official website to all those who had knowledge of the victims and the injured in the event to show up at the municipality.<sup>10</sup>

This was done in order for the municipality to collect the necessary data about all the victims who had lost their lives in the Mitrovica green market. However, that does not justify the fact that one victim was left unmentioned on the plaque, moreover since the plaque was erected upon the initiative of state institutions, which were supposed to have verified information. The fact that the victim was part of a minority community renders the case even more sensitive.

After more than two decades after the end of the war, state institutions should not claim that they have not had enough information, because they have a duty to verify and document the events of the past. Lack of information that results in the non-inclusion of victims because of their ethnicity does not contribute to inter-ethnic reconciliation in Kosovo.

The failure to include her name on the memorial plaque has affected the most Elizabeta's father, Rrahim Hasani. In an interview with Radio Free Europe, he expressed his pain, by saying, "My heart is aching, trust me." It must be known who is resting there... When her name is there, my heart also rests, it is easier for me. But this seems very bad to me as it is, very bad."<sup>11</sup>

Following multiple reactions and municipality's promise to add the name of the victim on the memorial plaque, the Municipality of Mitrovica placed the name of Elizabeta Hasani on the plaque on 17 August 2020. Mayor Agim Bahtiri, together with Deputy Mayor Faruk Mujka and former MP Albert Kinolli, unveiled her name on the memorial plaque.<sup>12</sup> This

<sup>6</sup> Klan Kosova, [Komuna e Mitrovicës sqaron mospërfshirjen e emrit të vogëlshes Elizabeta Hasani në pllakën përkujtimore](http://Komuna e Mitrovicës sqaron mospërfshirjen e emrit të vogëlshes Elizabeta Hasani në pllakën përkujtimore) (klankosova.tv)

<sup>7</sup> Kallxo.com, 02.08.2020, [Nënkryetari i Mitrovicës flet rreth mungesës së emrit të romes 5-vjeçare në pllakën përkujtimore të masakrës në treg](http://Nënkryetari i Mitrovicës flet rreth mungesës së emrit të romes 5-vjeçare në pllakën përkujtimore të masakrës në treg) (kallxo.com)

<sup>8</sup> Telegrafi.com, 07.08.2020, [Deputetët kërkojnë që emri i Elizabeta Hasanit të vendoset sa më shpejt në pllakën përkujtimore - Telegrafi](http://Deputetët kërkojnë që emri i Elizabeta Hasanit të vendoset sa më shpejt në pllakën përkujtimore - Telegrafi)

<sup>9</sup> Balkan Insight, 04.08.2020, [Si s'u përfshi emri i një vajze rome në pllakën përkujtimore të një masakre në Kosovë | Balkan Insight](http://Si s'u përfshi emri i një vajze rome në pllakën përkujtimore të një masakre në Kosovë | Balkan Insight)

<sup>10</sup> Kallxo.com, 02.08.2020, <https://kallxo.com/lajm/nenkryetari-i-mitrovices-flet-rreth-mungeses-se-emrit-te-romes-5-vjecare-ne-pllaken-perkujtimore-te-masakres-ne-treg/>

<sup>11</sup> Radio Free Europe, 06.08.2020, [Babai i Elizabetës kërkon kujtimin e saj](http://Babai i Elizabetës kërkon kujtimin e saj) (evropaelire.org)

<sup>12</sup> Mitrovica Municipality, 17.08.2020, [Komuna e Mitrovicës vendos emrin e vogëlshes së ndjerë Elizabeta Hasani në pllakën përkujtimore kushtuar masakrës së tregut](http://Komuna e Mitrovicës vendos emrin e vogëlshes së ndjerë Elizabeta Hasani në pllakën përkujtimore kushtuar masakrës së tregut) (rks-gov.net)



case proves that even today members of different ethnicities are not treated equally.

In the following section we will discuss two other similar cases, which have occurred recently, and which suggest to us that we as a society need to find a common ground so that all individuals show mutual recognition, respect and acceptance of the needs and interests of the other party.

### **Exclusion of Serb victims from the memorial plaque in Llužhan/Lužane, Podujevë/Podujevo**

On 1 May 1999, NATO hit a bus that was passing over a bridge in the village of Llužhan/Lužane in the Municipality of Podujevë/Podujevo. According to HLC data, a total of 44 people, 31 of whom were Albanian civilians, and 13 others Serb, 7 of whom were civilians, had lost their lives in the incident.

The NATO Colonel Konard Freytag had made a statement on the incident, stating that NATO had the responsibility for the attack, arguing that the bus, which was crossing the bridge at that moment, was not seen by the pilot, because his attention was focused on the bridge, which was his target.<sup>13</sup> Llužhan/Lužane's tragic event caught the attention of world's most prestigious media, including CNN and New York Times, which undoubtedly reported on the number of victims that lost their lives in the incident.

On the 22<sup>nd</sup> anniversary from the tragic incident, respectively on 1 May 2021, a memorial plaque was inaugurated at the scene, in which the names of 31 victims of Albanian nationality were engraved. On the other hand, the ordinal number 32, instead of the name of a victim, contained three dots.

During the inauguration of the plaque, the Mayor of Podujevë/Podujevo, Shpejtim Bulliqi, said that this memorial was built by the Municipality of Podujevë/Podujevo, however in a joint initiative with the families of the victims. In his Facebook account, he posted the speech that he had delivered that day, where he said: "Together with colleagues of the executive, members of the victims' families and citizens, we unveiled a memorial plaque with the names of all the victims that have fallen in this tragedy. 22 years ago today, 31 innocent Albanians were killed on the Llužhan/Lužane bridge."<sup>14</sup> In his speech he said that the plaque contained the names of all the victims.

HLC reacted to the omission, demanding the fair presentation of the event and the inclusion of all victims who had lost their lives in the incident. The reaction was also supported by the informal coalition of non-governmental organizations and was also broadcast by a large number of Kosovar media.<sup>15</sup>

In the Info Magazine edition of 5 May, Klan Kosova Television, with regard to the reaction made against the failure to include Serb victims, said that they had tried to obtain more detailed information from the Municipality of Podujevë/Podujevo. The municipality, through an official reply to Klan Kosova, claimed that they had had no information about other victims. It was also stated that they had sought help from the residents of the area and the relatives of the victims, but failed to find the names of other victims. This was the reason why the number 32 on the memorial plaque was followed by three dots, which means that there were other victims, on whose names the municipality had no information.<sup>16</sup> On the other hand, in an official response of the spokesman of the Municipality of Podujevë/Podujevo, Fatri Zhitia, for the ATV, he said that the memorial included the names of all the killed, based on the reports registered in the Municipality and that the number 32 on the memorial indicates the victims that were not registered.<sup>17</sup>

Therefore, the above statements given by the Municipality of Podujevë/Podujevo indicate that the municipality had information that other victims had lost their lives in the incident, judging by the dots that were placed next to number 32, listed on the memorial plaque. They then should have conducted additional research to obtain accurate information about the number and the nationality of the victims. With a little dedication, they could have had access to the multiple reports on the incident, including the reports made by international media.

<sup>13</sup> Human Rights Watch, "Kosovo: Civilian Deaths in the NATO Air Campaign", 1 February 2000, point 41, [Civilian Deaths in the NATO Air Campaign - Appendix A \(hrw.org\)](https://www.hrw.org)

<sup>14</sup> [Shpejtim Bulliqi - Posts | Facebook](#)

<sup>15</sup> Humanitarian Law Center Kosovo, Reaction, 05.05.2021, <https://www.hlc-kosovo.org/sq/media/komunikata-per-media/78/reagim-kerkohet-perfshirja-e-te-gjitha-viktimize-ne-pllaken-perkujtimore-ne-llužhanlužane>

<sup>16</sup> Online Video, Klan Kosova, Info Magazine, 05.05.2021, [Info Magazine Archives - Klan Kosova](#)

<sup>17</sup> Online Video, ATV Live, Memorial in Llužhan, 05.05.2021, [HLC criticizes Podujeva Municipality for not including Serbian victims in the tombstone - ATV LIVE](#)



Besides Klan Kosova, Radio Free Europe also referred to the reaction and conducted an interview with the parents of two of the Serb victims who were not mentioned on the memorial plaque. The radio presented the disappointment of the families with the failure to include their children in the plaque. One of them told them: "It does not matter if he is a Serb, Albanian or Roma, the names of all the victims should have been on that memorial plaque. I wish my children's names were on that plaque." The same opinion was shared by the families of the victims whose names were on the memorial plaque. An Albanian citizen from Podujevë/Podujevo, who was also interviewed by Radio Free Europe and who had lost his uncle and grandfather at the event also expressed his disappointment with the failure to include the Serb victims on the plaque. He stated, among other things, that "politics should be set aside."<sup>18</sup>

Omission of victims from memorial plaques is unacceptable, because victims that have lost their lives at the same times and circumstances cannot be divided on ethnic or other bases.

### **Denigration of Serb victims during the televised debate**

On 15 June 2021, a debate was held on Klan Kosova television regarding the dialogue between Kosovo and Serbia, and the topic was the meeting between Kosovo and Serbian delegations in Brussels. In the meeting, the Prime Minister of Kosovo Albin Kurti had addressed four proposals to the Serbian delegation headed by President Aleksandar Vučić, and one of the proposals had to do with the issue of the missing persons.

2 members of the Assembly of Kosovo from the Vetëvendosje Movement, Artan Abrashi and Arbëreshë Kryeziu-Hyseni, were invited to the debate, and present were 3 regular opinionists of the Rubikon Show: Rahman Paçarizi, Jehona Lushaku Sadriu and Shkelzen Gashi. The fourth proposal regarding the issue of the missing persons was discussed during this debate, among others. Responding to the questions posed to her by the show host Adriatik Kelmendi, Arbëresha Kryeziu-Hyseni said that the issue of the missing is extremely important and cannot wait any longer. Regarding the request of the Serbian side to shed light on the fate of the missing Serbs in Kosovo, the MP added that she did not believe that comparisons could be made between that request and the missing Albanians. This because, according to her: "We know very well that Serbs committed genocide against the Albanian people. They are the ones who should be accountable for the missing Albanians."<sup>19</sup>

In relation to her statement, Adriatik Kelmendi interposed, by saying that the families of the missing persons equally seek to shed light on the fate of their family members, regardless of ethnicity and guilt attributed to one party or the other. According to him, they are missing, to both a Serbian mother and an Albanian mother. He also asked the MP to speak about the request submitted by the Serbian side regarding the issue of the missing and not about the guilt of the Serbian state.

Yet, she kept on talking about Serbia's responsibility, saying that we can never equate Serbia's guilt towards us with the request made to Kosovo. The MP acknowledged the fact that they were also missing, but added that "the issue of the missing persons that Serbia is searching for can never be equated with our missing persons. The issue of the Albanian missing persons is definitely an issue that must be dealt with with an utmost seriousness and as a matter of great priority, and then, when their turn comes, we will speak about the missing Serbs."<sup>20</sup>

In this statement, Arbëreshë Kryeziu Hyseni stated that the issue of Albanian missing persons should have priority over the issue of missing Serbs. She clearly displayed a divide between ethnicities and treated them unequally.

Above all, the MP denigrated the missing Serbs by relativizing their number. Regarding the number of missing Serbs, she said: "We cannot compare the damage they have caused to the Albanian people with these demands they have for, let's say, those few people who have gone missing in the last war."<sup>21</sup>

However, in fact, the number of missing Serbs is not as small as stated by the MP. If we rely on data updated in the 2020 database of the International Committee of the Red Cross<sup>22</sup>, there are 1645 missing persons, over 400 of whom are of Serbian nationality. This list of missing persons is also the list that the Government Commission on Missing Persons uses as a reference. Therefore, regardless of the number and ethnicity of the people who are still missing since the last war in Kosovo, shedding light on their fate should always be treated with special priority and importance.

It is a matter of concern that a representative of the citizens of Kosovo has such an approach, excluding and denigrating the

<sup>18</sup> Radio Free Europe, May 7, 2021, [Spomen ploča ko deli vertve na Kosovë: Tri tačke za 'ostale' \(slobodnaevropa.org\)](https://www.rferl.org/a/Spomen-ploca-ko-deli-vertve-na-Kosove-Tri-tacke-za-ostale/slobodnaevropa.org/)

<sup>19</sup> Video online, Rubikon with Adriatik Kelmendi, 15.06.2021, [RUBIKON - Dialogu i Albin Kurtit - 15.06.2021 - Klan Kosova - YouTube](https://www.youtube.com/watch?v=...)

<sup>20</sup> Idem.

<sup>21</sup> Idem.

<sup>22</sup> [International Committee of the Red Cross \(icrc.org\)](https://www.icrc.org/)



victims of a certain ethnicity, taking into account that this MP may influence the development of policies and legislation related to dealing with the past.

The Informal Coalition for Dealing with the Past reacted to the disturbing statements of the MP in a televised debate on 17 June 2021. This coalition demanded that the relevant institutions in Kosovo condemn the denigrating language used by her. This is because the statement of the MP is in contradiction with constitutional provisions, the principles for dealing with the past and the principles of transitional justice. At the same time, all state institutions and society at large are asked to adopt an equal approach to dealing with war victims, as this is the only way for us to create a peaceful and equal society.<sup>23</sup>

## Recommendations

Given that war legacy is a very sensitive issue, it should be treated with caution and by avoiding opportunities to insult, denigrate and exclude the victims. Therefore, in order to have as fewer as possible such cases in the future, first of all we recommend that “Dealing with the Past Principles”<sup>24</sup> are respected and adopted by all political and public stakeholders involved in dealing with the past.

Memorialization of the past and the commemoration of the victims, including the erection of memorials in their honour, must be done in a inclusive non-discriminatory manner and without exceptions. All institutions, both central and local ones, should be careful in building memorial plaques containing the names of the victims and make sure that the names of all the victims are included on it, regardless of their gender, status, ethnicity or race.

All persons who speak of war victims in public, especially representatives of national parties and institutions, should rely on proven facts rather than mention victim figures arbitrarily. In addition, the representatives of institutions should not humiliate a group of victims and promote inequality among the victims in their public addresses. Such a discourse will offend the victims, increase distrust towards the institutions and impede reconciliation in the long run.

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<sup>23</sup> Facebook Page, Dealing with the past Principles, <https://www.facebook.com/dwpcosovo/posts/205400061465039>

<sup>24</sup> [Principi ALB \(yihr-ks.org\)](http://PrincipiALB(yihr-ks.org))

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