



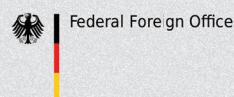
**QKRMT** Qendra Kosovare për Rehabilitimin  
e të Mbijetuarve të Torturës  
**KRCT** The Kosova Rehabilitation  
Center for Torture Victims



# POLICY PAPER

Addressing the hate speech  
and transitional justice in the  
civic space

June 2023



# Content

- 03 | Introduction
- 03 | Background
- 04 | Understanding of hate speech
- 05 | Impact of hate speech in the transitional justice
- 06 | Proposed measures to address the hate speech
- 06 | **Tendency 1** : Underestimation language towards civic actors
- 07 | **Tendency 2** : Underestimation language towards war survivors/victims
- 08 | Recommendations
- 10 | Hate speech and mass media
- 11 | END NOTES

## Introduction:

Civic space, which includes the sphere of civil society and the participation of citizens in shaping public policies and decisions, plays a critical role in the democratic societies. However, in recent years there have been disturbing tendencies against the civic space, specifically about hate speech vis-a-vis transitional justice. Hate speech, defined as language that incites hatred or violence against individuals or groups based on characteristics such as race, religion, ethnicity, gender or sexual orientation, has been on the rise, both on online platforms and in physical communication. At the same time, transitional justice, which includes addressing of the human rights abuses in the past, and promoting accountability, truth and reconciliation, confronted with challenges in achieving its objectives in some contexts.

Kosovo, a region in Southeastern Europe, has a complex history characterized by ethnic conflicts, violence and political riots. After the Kosovo War (1998-1999), efforts have been made to address the past and promote reconciliation through the work of civil society activists, dealing with issues such as human rights violations, war crimes and transitional justice. However, these citizen actors confront significant challenges in the form of hate speech, blackmail and threats, which prevent these actors from fully realizing their work and mission.

This policy paper aims to analyze current trends in the civic space related to hate speech and transitional justice, and argues that the civic space is shrinking for those working in the field of transitional justice, as hate speech against them is increasing. It also highlights the negative impact of hate speech on civic actors and their ability to effectively deal with the past and provides recommendations to combat hate speech and protect civic space.

## Background:

Since the end of last war in Kosovo, civil society organizations and activists have played a crucial role in advocating for human rights, truth, justice and reconciliation. They have been in front of the efforts in order to document war crimes, provide support to victims and their families, promote dialogue between different communities, and advocate for policy reforms aimed at addressing the past. However, these activists often confront harassment, threats and intimidation for their work.

Hate speech against civic actors dealing with the past in Kosovo is a fairly frequent issue. They are targeted with underestimation language, threats of violence and blackmail, often incited by deep ethnic, political and nationalistic feelings. Hate speech is used as a tool to undermine and discredit the work of these civil society actors, to sow disunity and perpetuate disunity in society. This condition creates a hostile environment that hinders their ability to work effectively and endangers their safety and well-being.

# Understanding of hate speech

Hate speech against civic actors dealing with the past in Kosovo has wide range consequences. This hinders their ability to perform their work freely and independently, as they are constantly subject to threats. Fear of retaliation and violence can lead to self-censorship, reduced advocacy efforts, and diminished impact of their work. Moreover, hate speech perpetuates a culture of intolerance, discrimination and violence, which can have long-term negative effects on social cohesion, building of trust and reconciliation efforts in Kosovo.

The use of hate speech also has a psychological impact on civic actors who deal with the past. This can lead to stress, anxiety, trauma and mental health problems, as they are constantly exposed to underestimation language, threats and intimidation. This not only affects their personal well-being, but also undermines their professional capacity to deal more effectively with sensitive and complex issues related to the past. The psychological fee of the hate speech on civic actors can have a detrimental impact on motivation, morale, and being active.

Hate speech is any form of communication, whether verbal or written, that incites violence, discrimination, hostility or prejudice against individuals or groups; based on race, ethnicity, religion, gender, sexual orientation, disability or other protected characteristics. Hate speech can take many forms, including, but not limited to, discriminatory language, underestimation comments, threats, harassment, defamation and misinformation. It can occur in public discourse, media, social media, public gatherings and other civic spaces, and can have serious consequences for individuals and communities, including psychological harm, discrimination, exclusion and violence.

Although there is no universally accepted definition of hate speech, the European Court of Human Rights in its case law has applied the term (without precise description) according to a Recommendation on hate speech, adopted in 1997 by the Committee of Ministers of the Council, according to which the term “covers all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.”<sup>1</sup>

Whereas at country level, Article 40 of the Constitution of the Republic of Kosovo guarantees freedom of expression and at the same time defines its restrictions. However, the Constitution of Kosovo under Article 22 defined the direct implementation of several international agreements and instruments related to hate speech, as well as under Article 53 it has defined the obligation and interpretation of human rights and freedoms guaranteed by the Constitution, in harmony with the judicial decisions of the ECHR.<sup>2</sup> Also, there is a wide range of documents where the hate speech is prohibited directly or indirectly, such as: the Criminal Code of the Republic of Kosovo and the Law on Protection from Discrimination.

# Impact of hate speech in the transitional justice

Transitional justice is a complex and sensitive process that requires addressing historical injustices, promoting accountability for past crimes, and incitement of reconciliation between divided communities. Citizen actors working in this field often confront challenges, including resistance from those who seek to deny, distort or suppress the truth about the past. In some occasions, state and non-state actors may actively oppose their work, fearing that it may challenge their power or legitimacy. Hate speech is increasingly being used as a tactic to intimidate, silence or discredit civic actors involved in dealing with the past, thereby reducing civic space.

Hate speech targeting actors and civic space might have harmful effects on transitional justice processes. Civic actors, including civil society organizations, human rights advocates and other stakeholders, are committed to disclose the truth, promoting accountability, protecting justice and inciting reconciliation in post-conflict societies. However, in this journey they may confront challenges and dangers, due to hate speech. For example:

- \* ***Undermining credibility:*** Hate speech can spread false and harmful narratives about citizen actors, portraying them as biased, untrustworthy, or enemies of certain groups or ideologies. This can erode the credibility of citizens, undermine their legitimacy and hinder their ability to effectively engage in transitional justice processes.
- \* ***Incitement of violence and discrimination:*** Hate speech can incite violence or discrimination against citizen, leading to physical assaults, harassment or intimidation. This can endanger the safety and well-being of citizens and prevent them from actively participating in transitional justice processes, or even force them to leave their work.
- \* ***It hinders the truth-seeking process:*** Hate speech can create an atmosphere of fear and intimidation, making it difficult for victims and witnesses to introduce and share their experiences. This can hinder the truth-seeking process, which is a critical component of transitional justice.
- \* ***Communities' division:*** Hate speech can worsen the social tensions and deepen divisions between different groups within society. This can hinder the establishment of trust and mutual understanding, indispensable for transitional justice processes and perpetuate cycles of violence, discrimination and conflict.

## Proposed measures to address the hate speech:

Addressing hate speech against civic stakeholders dealing with the past in Kosovo requires a multi-plan approach involving various stakeholders, including government, civil society, media and the public. Therefore, the following measures are proposed:

- \* **Legal framework:** The Government of Kosovo should adopt and implement comprehensive legislation, that directly stipulates and prohibits hate speech, including online hate speech, against civic stakeholders dealing with the past. Legislation should comply with international human rights standards and provide effective mechanisms for reporting, investigating and prosecuting incidents of hate speech. It should also include provisions for protection and support for victims of hate speech.
- \* **Awareness and education:** Raising awareness on the negative impact of hate speech and promoting education about tolerance, diversity and respect for human rights, can help the incitement of a culture of tolerance and respect. This can be done through public campaigns, educational programs in schools and civic education initiatives, aimed at different segments of society, including government officials, media and the general public.
- \* **Capacity building and sensibilization:** Civil society organizations and activists should be provided with training and resources to increase their capacity to address hate speech. This includes training in conflict resolution, communication skills, media literacy and digital security. Awareness campaigns should be conducted among the public, media and government officials to raise awareness of the negative impact of hate speech and to promote a culture of tolerance, diversity and respect.

## Tendency 1: Underestimation language towards civic stakeholders

Challenges in the transitional justice such as civic space efforts, transitional justice processes, which include measures such as truth commissions, criminal prosecutions, indemnities and institutional reforms, are central to addressing past human rights abuses, and promoting reconciliation and social healing in societies in transition from conflict. However, transitional justice efforts may confront challenges in the civic space, such as resistance from powerful elites, lack of political will, limited access to information and resources, and social polarization.

The most concerned cases are those of public harassment and threats. So, one of the most prominent cases is that of **Shkëlzen Gashi**, where because of his statement on a local television about justice for non-Albanian civilian victims of the war in Kosovo, he was publicly lynched. On this occasion, many civil society organizations (CSO/s) reacted publicly by opposing the public lynching of the human rights activist Shkëlzen Gashi. Because of his public statements, among other things, he had mentioned the non-Albanian civilian victims and their right to justice, as well as the individual responsibility that must be borne by the former members of the KLA (Kosovo Liberation Army), who have committed crimes during and after the war in Kosovo, Shkëlzen Gashi was publicly

lynched, threatened and insulted in the worst way by a wide audience, but also by many personalities and politicians.

Thus, proving that even many years after the war, it is extremely dangerous to talk about war crimes, about another story about the war, in a society where the culture of impunity has strengthened its roots.<sup>3</sup>

Then, there are the reactions and comments on social networks and the language used by irresponsible commentators towards **Bajram Qerkini**, representative of the Resource Center for Missing Persons, where the hate speech and denigration of the family members of the missing persons was used.

Another case is when civil society organizations were promoting the principles of dealing with the past, through an installation in the center of Pristina. The purpose of this installation was to raise the awareness of society in Kosovo and draw attention to the problems of denying war crimes and statements that constitute hate speech. In this case, apart the destruction of the installation<sup>4</sup>, **an activist of the Serbian community in Kosovo was publicly threatened** and lynched by a political party such as Lista Serbe.<sup>5,6</sup>

Another case can be found in 2016, where **Reporters Sans Frontiers (RSF) condemned** the death threats, insults and ungrounded accusations that were raised against Leonard Kërquki, editor-in-chief of the Express newspaper, after one of his documentaries addressed aspects of the Kosovo War 1998-2000 - atrocities against minorities. A day after his story, a photomontage of Kërquki with a forehead full of bullet holes in Serbian colors was posted on the Facebook page of the Kosovo Liberation Army (KLA). The KLA was accused in the documentary of having committed war crimes against civilians in the name of Kosovar patriotism.<sup>7</sup>

### ***Tendency 2: Underestimation language towards war survivors/victims***

Using underestimation language towards war survivors/victims is completely unacceptable and disrespectful. These individuals have often gone through unimaginable trauma and suffering, and it is important to treat them with sensitivity and understanding. Using underestimation language towards survivors/victims of war can also perpetuate harmful stereotypes and further stigmatize those who have already endured so much.

In the spirit of this denigrating language, there are obviously **denials of war crimes**. In this regard, the official Serbian policy, constantly denies the crimes, first of all insulting the victims and their families. The most vocal in this is the president of Serbia, Aleksandar Vučić, who has described the 1999 Reçak massacre as "fabricated". The Serbian president's statement came in response to the news that the MP of the Serbian List, Ivan Todosijevic, was convicted of inciting ethnic, racial or religious hatred by the Basic Court of Pristina, related to the comments made about the massacre of Reçak in a ceremony to mark the 20th anniversary of the NATO bombing of Yugoslavia.<sup>8</sup>

Also, **sexist language used against wartime sexual violence survivors** is unacceptable. Thus, in 2013, in the Assembly session, where the Draft Law on the status and rights of martyrs, invalids and other categories was discussed, some MP/s showed a sexist approach and underestimation language. Therefore, a protest was organized where the organizers of the protest assessed that the MP/s violated the human dignity of rape survivors and re-victimized them with their discussions.<sup>9</sup>

Then, there is also a case of the underestimation language of the Self-determination (Vetëvendosje) Movement MP, Arbëreshë Kryeziu Hyseni, during a TV debate. Specifically, on June 15, 2021, the MP stated that “the issue of missing Albanians is more priority than the issue of missing Serbs.”<sup>10</sup> At that time, the informal coalition of NGO/s for dealing with the past had reacted, emphasizing that, “the statement of the MP contradicts the constitutional provisions for the equal treatment of victims regardless of ethnicity, gender, language, nationality and race. Also, this statement contradicts the principles of dealing with the past. The growth of such a discourse, that for the Government it should be a priority only to deal with the crimes committed against an ethnic group, is in contradiction not only with the Constitution of Kosovo, but also with the principles of transitional justice.”<sup>11</sup>

### **Recommendations:**

- \* **Promotion of legal frameworks:** Civic actors should advocate and support the development and implementation of legal frameworks that address hate speech, in accordance with international human rights standards. This includes clearly defining hate speech and imposing appropriate sanctions, protecting the right to freedom of expression, and ensuring that laws are not misused to suppress dissent or legitimate criticism.
- \* **Inciting media literacy:** Civic actors should promote media literacy and digital literacy among the public, in order to enable critical thinking, fact-checking and responsive use of social media. This can help individuals recognize and object hate speech and reduce its impact on society.
- \* **Building of alliances and coalitions:** Civic actors should collaborate with like-minded organizations and individuals to build alliances and coalitions against hate speech. This may include joint advocacy efforts, public campaigns and solidarity actions in order to reinforce messages of tolerance, diversity and inclusion and against hate speech, through positive and constructive narratives.
- \* **Strengthening access to justice:** Civic actors should advocate for equal access to justice for all individuals and groups, especially victims of human rights abuses. This includes promoting reforms to ensure that justice mechanisms are independent, transparent and inclusive, and that victims have the right to participate, be heard and seek indemnity.

- \* **Promotion of truth and reconciliation:** Civic actors should support efforts to establish truth commissions or similar mechanisms that promote truth, historical memory and reconciliation. This includes advocating for the inclusion of diverse perspectives, inciting of dialogue between diverse groups, and promoting a culture of accountability and reconciliation at all levels of society.
- \* **Supporting a victim-centred approach:** Civic actors should give priority to the needs and rights of the victims in the processes of dealing with the past.
- \* **Capacity building:** Kosovo should invest in capacity building for civic stakeholders involved in transitional justice to effectively recognize, document and report incidents of hate speech. This could include training programs to identify hate speech, digital literacy and safety measures to deal with hate speech. Capacity-building efforts should also aim to strengthen the resilience and well-being of citizen actors by providing them with psychosocial support and measures to cope with the negative impacts of hate speech.
- \* **Awareness raising and education:** Kosovo should develop comprehensive awareness campaigns aiming different segments of society, including civil society organizations, media, educational institutions and the general public. These campaigns should aim to promote tolerance, respect for diversity and the harmful consequences of hate speech. Educational institutions should also integrate human rights education and media literacy into the curriculum , in order to equip young people with the skills and knowledge to critically assess and respond to hate speech.
- \* **Multisectoral cooperation:** Kosovo should incite multisectoral cooperation between government institutions, civil society organizations, media and other stakeholders to develop a coordinated and holistic approach to address the hate speech targeting citizens involved in transitional justice. This could include creating joint mechanisms for monitoring and reporting incidents of hate speech, coordinating response strategies, and developing partnerships to strengthen counter-narratives against hate speech.
- \* **International cooperation:** Kosovo should engage in international cooperation to share best practices, expertise and resources in addressing hate speech targeting citizens involved in transitional justice. This may include partnering with international organizations to develop joint initiatives, share knowledge and mobilize resources to effectively combat hate speech.

Addressing hate speech in the civic space targeting citizens involved in transitional justice is essential to promote peace, reconciliation and justice in Kosovo. By adopting a comprehensive legal framework, investing in capacity building, raising awareness, promoting multi-sectoral cooperation and engaging in international cooperation, Kosovo can effectively prevent, respond to, and combat hate speech incidents. The recommendations given in this policy document aim to promote a culture of tolerance, respect and ensure that citizens can carry out their work without fear of harassment or intimidation. The government and civil society organizations should work together to implement these recommendations and promote a peaceful and just society in Kosovo.

### *Instead of conclusion:*

#### **Hate speech and mass media**

As we mentioned, hate speech is a complex issue that poses a major threat to society. It can spread harmful messages and create division between people. In the context of the mass media, hate speech can be particularly dangerous, as it can reach a large audience and have a significant impact on public opinion.

According to a monitoring report, published by the Media Diversity Institute and Kosovo 2.0, which from October 2020 to April 2022, had systematically monitored hate speech and disruptive narratives in the media, including social media, in Kosovo, a total of 71 cases that contained hateful and disruptive narratives where women, community LGBTQ+, **Kosovo Albanians and Kosovo Serbs**, were key objectives. Hate speech **against ethnicity** dominated by 46.5% of total cases.<sup>12</sup>

According to the same report, incidents of hate speech were mostly caused by influencers, bloggers, social media activists (46.5%), followed by journalists, media personnel, media writers, analysts (19.7%), politicians, political parties, state officials (12.7%), private persons (11.3%), celebrities (4.2%) and other types of public figures such as intellectuals and professors (5.6%).<sup>13</sup>

Therefore, some policy recommendations on hate speech in mass and social media in the context of Kosovo include as follows:

- \* Regulation of hate speech:** Governments should regulate hate speech in the media by establishing clear guidelines and standards that stipulates what constitutes hate speech. These guidelines should be developed in consultation with experts and civil society organizations, and should be updated regularly.
- \* Promoting media diversity:** media bodies should be encouraged to promote diversity and inclusion in their content. This can be achieved by increasing the representation of marginalized groups in media organizations, and providing training to journalists on how to report on sensitive issues.

- \* **Empowering self-regulation:** Media organizations should be encouraged to adopt self-regulatory measures that promote responsible reporting and minimize the risk of hate speech. This may include establishing some internal mechanisms in order to monitor and review the content, and provide training to staff on ethical reporting practices.
- \* **Improvement of control tools:** Social media platforms should invest in better screening tools and technologies, including artificial intelligence, to detect and remove hate speech quickly and efficiently. This would also assist in reducing the burden on those persons who performs these checks, and who may be traumatized by the content they are asked to review.
- \* **Promotion of media knowledge:** The public must be educated on risks of hate speech in the media, and equipped with the necessary tools to identify and report hate speech when they encounter it. This can be achieved by promoting media literacy programs in schools and providing information and resources on responsible media consumption.
- \* **Encouraging accountability:** Media organizations that engage in hate speech must be held accountable for their actions. This can be achieved by imposing fines or other sanctions for violating the hate speech rules, and by providing a mechanism for individuals or groups who have been harmed by hate speech in order to seek indemnity.

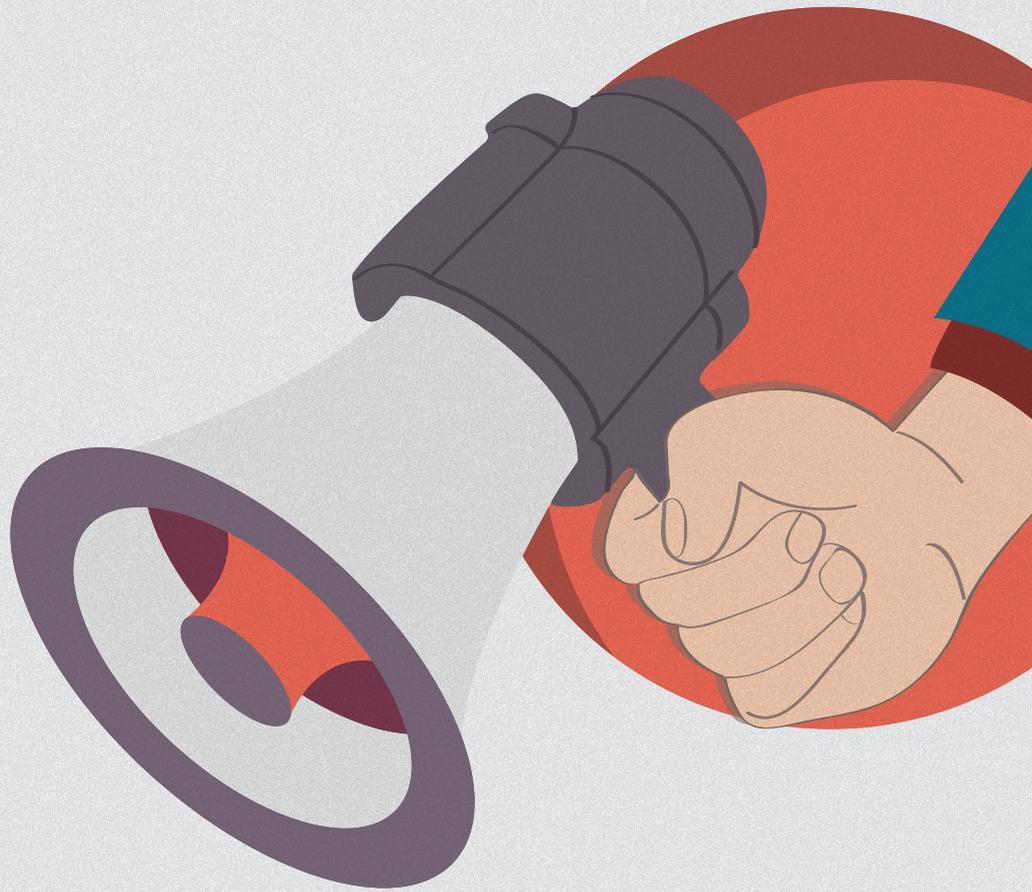
In general, the key to combating hate speech in the media is a combination of regulation, self-regulation and education. By working together, governments, media organizations and civil society can create a safer, more inclusive media environment that promotes respect and understanding among all members of society.

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## ENDNOTES:

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- <sup>13</sup> Ibidem.





*This publication is realized by KRCT within the implementation of project activities financially supported by the Federal Foreign Office of the Federal Republic of Germany. The project is implemented by the consortium led by the Albanian Helsinki Committee, consisting of the Helsinki Committee for Human Rights in Serbia, Serbia; Macedonian Helsinki Committee, North Macedonia; Helsinki Committee for Human Rights in Bosnia and Herzegovina; Kosova Rehabilitation Centre for Torture Victims, Kosovo. The initiative implemented by the consortium of organizations "Challenging the shrinking space for civil society in the Western Balkans" is part of the project "Strengthening civil society cooperation within the OSCE region for stabilizing the human dimension in times of shrinking spaces and countering the erosion of common values and multilateral mechanisms."*



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