

Second-class Minorities: The Continued Marginalization of RAE Communities in Kosovo

The Norwegian Helsinki Committee



Norwegian Helsinki Committee (NHC)

PREFACE

The Norwegian Helsinki Committee has been active in the Western Balkans, including Kosovo since the late 1980s. The committee has repeatedly visited RAE — Roma, Ashkaeli, and Egyptian — communities throughout the Western Balkans, in Kosovo, Serbia and Macedonia.

The human rights situation of the RAE communities in Kosovo is grim. For years, human rights organizations both within and outside of Kosovo have acknowledged that the RAE communities remain the most marginalized and discriminated against of communities in the territory. In June and July 2007 we conducted additional research on the situation of the RAE communities in Kosovo. The results, which are contained in this report, confirmed this conclusion.

Field interviews with RAE representatives and individuals as well as with humanitarian and non-governmental organizations and government representatives further suggest that in the current political context there is little chance of reversing this trend. Political will to address the needs of the RAE communities in Kosovo appears weak at best. The strong sentiment on the ground — among RAE and non-RAE interlocutors alike — is that the plight of the RAE communities is worsened by the fact that they sit in the political crossfire between Albanians and Serbs.

This report does not analyze all aspects of the situation of RAE communities in Kosovo, but focuses on three key areas that contribute to the marginalization of these communities, namely

- the lack of civil and political representation and participation;
- high levels of unregistered individuals, preventing regular access to social assistance and inclusion in all spectrums of civil life; and
- an absence of education that stunts any potential for change.

Julie Chadbourne, the Kosovo representative of the Norwegian Helsinki Committee, researched and wrote this report. The report was first made public as a paper at the Norwegian Holocaust Center in Oslo on the occasion of the conference "Historical and Current Perspectives on Persecution of Sinti & Roma in Europe," September 14, 2007.

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INTRODUCTION

Who wants a lot of Roma next door — anywhere in the world?
— Kosovo interlocutor, July 2007

Historically RAE — Roma, Ashkaeli, and Egyptian — communities have been those most marginalized and discriminated against in Kosovo. While active and passive disdain for their communities is not new, it has clearly been exacerbated by widespread conflict and dramatic displacement, estimated at more than 60% of RAE communities. Decades of experience accepting the harshness of their reality rather than fighting it, has made it convenient for international and local leadership to simply maintain the status quo even in the face of significant international personnel and development resources.

For the most part, RAE communities in Kosovo today live in abject poverty, and frequently in displacement.¹ High infant mortality rates, extreme unemployment, and low levels of education mark their communities. Almost one-half of the estimated 35-40,000 RAE in Kosovo have never registered their existence as individuals before the state and, as such, do not officially exist. This makes access to basic social services such as health care and education difficult and unreliable. It also impacts on the ability of members of these communities to vote in elections and to find regular and legal employment that could help to improve their overall living standards.

Less than 20 % of the collective RAE communities attend school beyond the age of 12, with less than 1% continuing on to university or technical faculties after secondary school. The illiteracy rate is estimated to be more than 16% of the population. For some, this picture of destitution is rounded out by fear for their physical safety and continued low-level harassment and intimidation, such as name-calling, stone-throwing, spitting, and threats about what will happen to their communities if independence for Kosovo is achieved.

In the current political context where politics are dominated by Belgrade and Pristina or other world capitals, it is all the more difficult for RAE communities to garner the attention they require to affect positive change as they do not, nor have they ever had, a mother state or external lobby for their cause in the way that other minorities in Kosovo have had. Consequently, it has become easy to forget them unless there is critical media attention or some other motivator for action such as the plight of children with toxically high lead levels in refugee camps in North Mitrovica/e.

This reality is further cemented by the fact that RAE communities remain wedged between the Kosovo Albanian and Kosovo Serb communities. Although neither community has been willing to commit itself to sincerely addressing the concerns of the RAE communities in Kosovo, both use RAE issues as a political tool when handy. To this end, RAE communities are as easily depicted as an example of successful assimilation and thus minority protection — proof of the magnanimity of the Albanian-led provisional institutions of self-government (PISG) — as they are symbolic of the complexities of safe and sustainable return and persisting freedom of movement concerns.

Furthermore, the general emphasis on minority inclusion and protection in recent years, rather than help the situation, has resulted in further marginalizing these communities because the term

¹ Displacement is an important factor in that it has been shown to aggravate the already vulnerable position of individuals, resulting in higher levels of unregistered persons or non-attendance in schools. Norwegian Helsinki Committee interviews with interlocutors working with refugees and displaced persons, Kosovo, July 2007.

"minority" has in effect been translated by many actors working in Kosovo to mean "Kosovo Serb." In practical terms this has meant that human rights initiatives implicitly include priority support for or recognition of the position or perspectives of Kosovo Serb minority communities, as opposed to the RAE or other minority communities. This has had its repercussions in areas such as employment opportunities for RAE communities or in the prioritization of — and ample funding for — reconstruction and returns projects. As one interlocutor bitterly stated when describing the plight of an Ashkaeli man trying to have his destroyed house rebuilt, "If it had been a Serb family, they [the municipality] would have immediately constructed a house and had media all over it."²

This report addresses three particular areas of concern that appear to lead to the marginalization of RAE communities in Kosovo:

- Lack of community cohesion in combination with a systemic lack of political or civic participation;
- High levels — some estimates as high as 40% — of unregistered individuals in combination with the vast majority of the population still living in displacement, either inside of Kosovo or elsewhere in the region or Western Europe; and
- Almost non-existent education of RAE communities living in Kosovo, with less than a quarter of the population attending school.

In a final section, this report highlights returns as an example of where community identification can have dramatic consequences on individuals' day-to-day lives and future opportunities — and where identification can itself become used as a political tool. The example further illustrates the placement of RAE communities between Kosovo Albanian and Kosovo Serb communities' priorities, only heightening their vulnerability to political pressure as the province struggles to increase its level of independence from Serbia proper.

Finding solutions for addressing the marginalization of these communities is further exacerbated by an absence of reliable data and comprehensive research on the human rights concerns affecting these communities. A fresh and comprehensive approach to assessing and addressing RAE communities concerns — combined with demonstrated political will from the international, Albanian, and Serbian leadership — is urgently required before this community is irreversibly damaged by decades of neglect and systematic discrimination.

² Norwegian Helsinki Committee interview with RAE representative working in Kosovo, July 2007. It should be noted that this report does not address the human rights situation of the Kosovo Serb community, and does not intend to comment on their circumstances per se, but rather address the situation of the RAE communities.

Community Identification and Participation

As highlighted above, one of the primary issues that have contributed to the continued marginalization of RAE communities in Kosovo is the lack of social cohesion within the communities. This in turn has affected the ability of communities to meaningfully participate in civic and political life in Kosovo. It has also impacted on their ability to effectively combat policies adverse to their interests, such as in the area of returns.

RAE Identification

I am Roma. My older sister in Gjakova, she is Egyptian. My other sister is Ashkaeli. We are from one father with the same blood and three ethnicities.

— thirty-five-year-old woman from Kosovo

Any discussion of the RAE communities in Kosovo must first define and acknowledge the distinction between the communities. It must also be noted that as recently as the 1970's there was no related category of persons living in Kosovo, with most members of these communities identifying themselves as "Albanian" in official registries and for voting purposes. This has made self-identification and social cohesion all the more difficult.

Roma communities

Individuals that identify themselves as Roma have frequently lived in areas where there were denser Kosovo Serb populations. Consequently, they speak Serbian with relative ease, and often the Romani language. Many live in isolated Kosovo Serb enclaves or Serbian-majority areas and do not mix with or move freely in majority Albanian areas. Unlike Egyptian and Ashkaeli individuals, Roma tend to use Belgrade-financed structures, such as schools and health services. Roma communities in Kosovo have perhaps received the most media attention of the RAE communities due to the appalling conditions in which they have lived in displacement in the northern part of the province and the controversy over their return to the former Roma Mahala in South Mitrovice/a town.³

Ashkaeli communities

The Ashkaeli are the newest (most recently recognized) community in Kosovo. The term Ashkaeli originates from the post-1999-conflict period, but has officially been supported by UNHCR and the international community as a distinct minority community in Kosovo. Colloquially, Ashkaeli individuals are said to speak Albanian at home and to be more closely affiliated to Kosovo Albanians than Kosovo Serbs. This affiliation is generally defined in terms of similarities to the Kosovo Albanian or Kosovo Serb communities in terms of political ideology, culture, and religion, but it appears that language-use is perhaps the most defining characteristic. Many RAE interlocutors contend, however, that the use of Albanian is more connected to where individuals were born and

³ See e.g. reports of the Humanitarian Law Center (HLC) and the European Roma Rights Center (ERRC), available at <http://www.hlc.org> and <http://www.errc.org>. In late spring 2007 the Center for Disease Control surveyed the level of lead contamination in residents of Cesmin Lug. They found hazardously high levels and will be issuing a report recommending the dismantling of the camp. One of the complications is that authorities are facing resistance from residents who do not wish to move to the nearby military barracks (Osterode) for fear that a more sustainable solution for their displacement will then not be found. Norwegian Helsinki Committee interview with Kosovo-based RAE interlocutor, Kosovo, July 2007. It should also be noted that at present Cesmin Lug is the only remaining camp in the northern part of Mitrovica/e. The other camps were dismantled after inhabitants moved to Osterode.

the language of the majority community and schools surrounding them than to ethnic identification or affiliation with the majority group per se.

It has further been suggested by a number of RAE interlocutors that self-identification as "Ashkaeli" was fuelled by ethnic hatred and fear in the post-conflict period, not by genuine difference in the collective "Roma" community at the time. After the return of refugees in the summer of 1999, and still today, urban myth has it that "the Roma were collaborators with the Serbs [against the Albanians]." Consequently, it has been important for many individuals to distance themselves from the undesired community for safety purposes. Despite the closer linking with the majority Albanian population, however, Ashkaeli communities in many parts of Kosovo remain separate from mainstream Albanian communities and are among the poorest in Kosovo.

Egyptian communities

Egyptian communities date back to the mid 1990's (1994) when the Yugoslav Egyptian Association was formed. Egyptians, largely present in Western Kosovo, define themselves as originating from Egypt as opposed to India, thus clearly differentiating their ancestral heritage from that of the Roma. Roma community representatives argue that all three communities (Roma, Ashkaeli, and Egyptian) are the same, and that the Egyptian community is actually a political construction designed by the Milosevic regime to decrease the official number of registered "Albanians" living in Serbia proper, and more specifically Kosovo. Regardless, it is clear that Egyptian communities have had a longer relationship with politics and consequently higher levels of political and civic participation in Kosovo than either the Ashkaeli or Roma communities.

Representation and Participation

The lack of social cohesion within the RAE communities in combination with a history of passive participation, marginalization, and extreme poverty has certainly contributed to the serious inability of the RAE communities to self-organize. Further to this, it has been difficult for these communities to collectively appoint solid and reputable representatives who can raise their voice against issues such as policies of return or development aid support.

Consequently, the distribution of aid and impact of returns policies has tended to fuel further agitation and reactionary self-identification within communities rather than provide a source of support for their improved human rights situation. The void in leadership has also made it difficult to achieve political prioritization for RAE communities' day-to-day concerns, as evidenced by the lack of substantial improvements made in their daily living conditions or future prospects over the course of the last several years.

With the exception of perhaps a few, it appears that most representatives of the RAE communities are self-appointed and controversial within their own communities at best. Interestingly, in some communities, even where the total number of individuals living in that location is less than a few hundred, there is a Roma community representative, an Ashkaeli community representative, and a RAE communities (collectively, as opposed to a singular community) representative. It appears that the effectiveness of a representative, whether fairly or unfairly, depends largely on their relations with international and national interlocutors, which in some settings can boil down to something as simple as their ability to communicate in a common language. There has been little pressure on these representatives to ensure full collaboration and consultation with their communities as part of their representation efforts.

Not surprisingly, this has meant that there has been very little — to no — real participation of the RAE communities in decisions affecting their civic or political life in Kosovo. RAE actors have little

voice in mainstream politics. Their perspectives are rarely heard on national television or radio broadcasts. They do not engage in public demonstrations, marches, or collective actions to garner attention for their specific interests. In fact, to a large extent RAE communities live in the periphery, rarely engaging with the Kosovo Albanian or Kosovo Serb communities.

It is unclear to what extent the almost complete lack of participation is the result of continued patterns of behavior and/or apathy-based versus the function of their experience of marginalization and discrimination, which in turn fuels safety concerns that inhibit participation. In an interview with the Norwegian Helsinki Committee, one international interlocutor working with RAE communities explained that engaging RAE communities, even when it comes to reporting concrete crime, is difficult because "traditionally [RAE individuals] have learned not to cooperate with state institutions because the relations are not that good."⁴ The interlocutor further noted that individuals from the RAE communities have the experience that if they do report crime, majority community actors fail to take up the case, thus reinforcing their hesitancy to report in the first place. Another interlocutor gave the example that attempts to participate in civic life, such as reserving the use of a municipality-owned auditorium for an event, have been rewarded by disparaging remarks and bureaucratic hurdles, again reinforcing the notion of the state as an obstacle rather than an ally.⁵

RAE communities and their representatives are easily compartmentalized by the international community as simply being "the weakest actor in Kosovo."⁶ Although, there have been attempts to document the human rights situation of these communities, too little attention has been paid to the field perspective and the time-consuming task of genuine comprehensive research efforts. This has forced international and national interlocutors alike to rely on the data and perspectives provided by the handful of active representatives. It has also meant that strategies for improvement and discussions of priorities for these communities are made on the basis of incomplete and at times inaccurate and/or manipulated data.

National government actors in Kosovo have not been more proactive than their international counterparts in terms of taking concrete measures to better inform themselves about the situation on the ground. They, too, have comfortably relied on the lack of data and representatives as a starting point for discussions about the RAE communities, with little sincere effort to ameliorate this lack of data or to improve upon particular issues.

At the end of 2005 and in the early part of 2006 a number of RAE representatives and non-governmental organization actors attempted to rectify this void of data and lack of position on key issues. Working as the *Kosovo Roma and Ashkali Forum*, these actors developed a position paper for use during the status negotiations process as a means of representing RAE-specific concerns. This document did find some place in the negotiations and has since been used as the base of several working group meetings designed to develop a Kosovo-specific RAE strategy to be endorsed by the Provisional Institutions of Self-Government (PISG).⁷

But, as one interlocutor pointed out in an interview with the Norwegian Helsinki Committee, "[i]t is not as simple as that they did not participate, but that nobody listened."⁸ In the case of the RAE strategy meetings for example, RAE representatives implicitly participated as they were the primary focus of such meetings. Even so, working group facilitators found it difficult to identify RAE

⁴ Norwegian Helsinki Committee interview with international representative, Kosovo, July 2007.

⁵ Norwegian Helsinki Committee interview with activist working with RAE communities in Kosovo, June 2007.

⁶ Norwegian Helsinki Committee interview with international interlocutor in Kosovo, July 2007.

⁷ Kosovo Roma and Ashkali Forum, "Our Position 2006," Position Paper 1/2006.

⁸ Norwegian Helsinki Committee interview, July 2007.

interlocutors willing and able to participate in discussions on certain subjects. Nonetheless, it has been disappointing that there has been insufficient consultation with individuals working in the field across sectors and that the discussions have proceeded without fresh data to inform them.

It is also disconcerting that non-RAE interlocutors remain the responsible engines for moving the process forward and for formulating the base documents upon which the strategy and priorities will be based. There is some concern that the strategy will at once be too ambitious and too superficial to make the kind of necessary improvements in the situation. This concern is further fuelled by the fact that PISG representatives frequently changed, thus losing any continuity or accumulation of experience that might have been gained by participating in such a process. The representatives also reportedly came unprepared to working group meetings, giving some indication of the priority these issues have garnered.

In the status negotiations process led by Martti Ahtisaari, there was some RAE representation through Unity Team members and occasionally through direct invitation to meetings or consultations. Generally speaking, though, their participation came across publicly and within human rights circles as an effort to fulfill the conditions of comprehensive consultation rather than a genuine effort to ensure inclusion of matters of grave concern to these communities. Had there been a more sincere interest in those particular perspectives, a more formal inclusion arrangement could have been devised. As one international interlocutor summed up the situation:

Participation in the status negotiations is hampered by [the lack of experience and capacity of] the people sitting there. Plus the process is closed without outside consultation; there are no outside experts to help formulate positions. It was a ruse. They discussed some things and then someone else decided some things.⁹

Another good example of this problem of shadow participation is the redrawing of a protective zone boundary around the *Gorioc* monastery in the western part of the province. The basic facts of the case are as follows. Near the monastery there was a settlement of a significant number of families from the RAE communities. They were forced to flee Kosovo during the conflict and have since been living in displacement in Montenegro. Despite advanced preparations for their organized return and a show of good faith on the part of the municipality to facilitate the return, status negotiators redrew the protective boundary line of the monastery such that return would no longer be a possibility.

Consequently, plans for the return of these families have been suspended because in essence their right to return was "overruled by other interests."¹⁰ That this could happen without consultation and without an opportunity to appeal the decision in an environment where RAE communities were technically represented and active in the status negotiations process does not bode well for the RAE communities.

Admittedly, however, discussion of participation in this context raises not only the issue of whether participation is sought out and valued, but whether participation can be meaningful where there are genuine concerns about the quality and reliability of representation of these communities. As one interlocutor opined:

⁹ Norwegian Helsinki Committee interview with an international interlocutor working with RAE communities, Kosovo, July 2007.

¹⁰ For further discussion see Ombudsperson Institution in Kosovo, Seventh Annual Report 2006 – 2007, July 2007, available at <http://www.ombudspersonkosovo.org>.

The political representatives are the main actors, but they are useless. Those that are in the Kosovo assembly are not functioning because they do not represent the interests of their communities, just their own personal interests."

The interlocutor went on to describe how one representative who was invited to Vienna used his opportunity to represent his community by emphatically declaring that "Kosovo is one of the best places for Roma in the world."¹²

There is also concern, though, that those working on RAE communities issues in Kosovo risk being too close to the issues after so many years of working intensively with these communities. It may well be time for external input and less familiar perspectives on the actors and representatives of these communities in order to effect change. A fresh assessment in combination with comprehensive hard-hitting fieldwork to clarify the situation on the ground could open the door to much more fruitful discussions. It would also lay the groundwork for opportunities to increase social cohesion and identification as well as to improve upon the quality of the communities' representation, and ultimately, their experience with participation in civil and political life in Kosovo.

¹¹ Norwegian Helsinki Committee interview with Kosovo interlocutor, July 2007.

¹² Ibid.

Registration of RAE Communities

Registration is synonymous with existence or identity before the state. Current estimates suggest that between 20 and 40 % of the 35-40,000 individuals from RAE communities living in Kosovo are unregistered. This means that anywhere from 8,000 to 16,000 individuals cannot participate in basic civil or political life in Kosovo.

Concretely, several thousand individuals from the RAE communities may well not be able to participate in elections, losing yet another chance to have a say in laying the foundations for a better future. They may also find it next to impossible to access basic health care and social assistance, or to ensure that their children enjoy the right to education. Those whose children do gain access to schools despite their lack of documentation/registration will not be able to receive a diploma for their efforts because of their unregistered status. Unregistered individuals from the RAE communities also face extremely limited employment opportunities as well as limited protection from employer abuse. These are just a few of the examples of the impact not being registered has on the lives of individuals from these communities as well as on the collective well-being of the communities.

Should Kosovo achieve some form of independence before these individuals have regularized their legal status, they will become stateless. This is a real concern given the difficulties UNHCR and national lawyers have faced when working to register as many individuals as quickly as possible. Even after approximately one year of an intensive UNHCR-led registration campaign across the province, less than ten percent of the estimated unregistered population has been regularized.¹³

These concerns extend to the thousands of unregistered individuals from RAE communities who fled Kosovo during the conflict and who are still living in displacement outside of Kosovo. As in Kosovo, it is unknown exactly how many of these individuals lack documentation or have otherwise not formally registered before any state.

According to statistics from early 2006, less than one-third of the pre-conflict RAE population are currently living in Kosovo, with less than 5% of those who fled because of the conflict having returned back to the province in the eight years since 1999. This would suggest that some 120,000 or more individuals from RAE communities continue to live in displacement in the region, e.g., Serbia proper, Montenegro, and Macedonia, or in countries in Western Europe or further abroad. Given that registration has historically been problematic for these communities in Kosovo, it is anticipated that a significant percentage of this population is also unregistered.

Across the board, registering individuals from RAE communities in Kosovo has proven time-consuming and difficult. The general consensus among lawyers, refugee protection officers, and humanitarian organization representatives is that if there is an area where RAE communities clearly suffer from discrimination it is in registration. Although there is little solid research or analysis available to back this conclusion, there is evidence that RAE communities suffer from a serious inability to reliably access public services. Moreover outreach to their communities appears variable at best. Despite an administrative instruction to facilitate the registration process, problems with regular and standard implementation of the law persist.¹⁴

¹³ From September 2006 through the end of the August 2007 approximately 1,500 individuals were registered. Norwegian Helsinki Committee interviews with UNHCR/Kosovo and national lawyers, June-September 2007.

¹⁴ Norwegian Helsinki Committee interviews, Kosovo, May-August 2007.

Although the experience of individuals varies across municipalities there are some common obstacles that can be highlighted for the purpose of illustrating the situation on the ground.¹⁵ The remainder of this section focuses on birth registration as an example of these obstacles.

In Kosovo, there are two kinds of registration — civil status and habitual. Civil status registration encompasses the registration or documentation of events such as the birth of a child, the marriage of a couple, or the death of an individual. Habitual registration, on the other hand, identifies an individual as being a citizen of the state and, as such, having the right to participate in civil and political life. Habitual registration opens the door to opportunities such as health care coverage, social assistance, and the right to vote.¹⁶

Although the two types of registration allow for different rights under the law they are interconnected in that without civil status registration such as registration of birth it is impossible to achieve habitual residence. The forms of registration are also linked in terms of the ability to register the birth of newborn children, as children cannot be registered to unregistered individuals. Thus, if the mother or father of a child does not have documentation of any sort to prove that they officially exist before the state the child also does not have the ability to "officially exist."¹⁷

Another issue that greatly affects registration of birth — the prerequisite document so-to-speak — is the high rate of home births in RAE communities. In short, registration of a child's birth is dramatically easier and bureaucracy-light when part of a hospital birth. But, unregistered or undocumented individuals will find it hard to access health care services and may not opt for a hospital birth.

One interlocutor told the Norwegian Helsinki Committee that the problem is not, however, as simple as home versus hospital birth, explaining that in some cases unregistered mothers who gave birth in hospitals were told that because of their status their babies could not be discharged to their care. Consequently there are reported cases where the mother fled in the night with her baby, later afraid to approach the authorities to register her child or to access necessary treatment or preventative health care such as vaccinations.¹⁸

The concern here is to what extent treatment of individuals from the RAE communities in these circumstances is a result of their ethnicity and to what extent it is purely registration-based. According to RAE experts working on registration in Kosovo, it likely has more to do with the latter. But, as one interlocutor explained, an Albanian or Kosovo Serb mother would likely be treated with more dignity because they would be seen as the victim of circumstances. In the case of individuals from the RAE communities, the reaction has tended to be, "[w]hy are you so messy? Why haven't you fixed your paperwork? You make such a mess and burden for us."¹⁹ When questioned about the high level of unregistered individuals, these same individuals tend to generalize the situation by stating that "[RAE are not registered] because well, it's their culture and they don't want to be registered."²⁰

¹⁵ For a more in-depth analysis of these issues see Organization for Security and Co-operation in Europe, Mission in Kosovo, Department of Human Rights, Decentralization and Communities, *Civil Registration of Persons Belonging to the Roma, Ashkali and Egyptian communities Findings—A Monitoring Exercise, 11 December 2006 – 15 January 2007*, released 25 June 2007.

¹⁶ Norwegian Helsinki Committee interviews with registration experts in Kosovo, June-July 2007.

¹⁷ Ibid. It should also be noted that this is a concern in other communities in Kosovo as well, but particularly widespread among the RAE communities.

¹⁸ Ibid.

¹⁹ Norwegian Helsinki Committee interview with officer working in the refugee protection sector, Kosovo, July 2007.

²⁰ Ibid.

Recognized marital status of the parents is an additional concern. It is much more difficult for parents to register the birth of their children if they cannot document that they are legally married. This is particularly troublesome in the Kosovo context where informal marriages are widely recognized within all communities. Early marriages among girls aged twelve to sixteen in the RAE communities — marriages that are technically illegal, but community-condoned — further exacerbate the situation.²¹

Children who are born in displacement outside of Kosovo face additional obstacles in regularizing their legal status. In some municipalities for example, parents who have returned to Kosovo have found it arduous to register their children (if born in Serbia proper for example) within the PISG structures in Kosovo because the Kosovo-based authorities do not recognize the documentation issued to them whilst outside of the territory.²²

In short, what seems straightforward — registration of the witnessed birth of a child — is itself the starting point for a number of serious obstacles to achieving the full registration of individuals from the RAE communities in Kosovo. It is indicative of the challenges that lie ahead in achieving full registration.

²¹ Ibid.

²² Similarly, individuals who possess documentation issued by Belgrade-supported parallel structures in Kosovo are essentially unregistered in Kosovo as the PISG frequently does not recognize their documentation. Consequently, they are faced with the arduous task of proving their existence anew before another set of authorities.

Education

Roma are in a vicious circle. They are undeveloped because they are not educated. Why are they not educated? Because of their economic position. And why? Because they are not educated. This is a circle we have to break.

— RAE strategy expert in Kosovo, July 2007

Most RAE children do not attend school. Although historically RAE communities' attendance in school has been lower than that of the Kosovo Albanian, Kosovo Serb, and other communities in Kosovo, the rate of non-attendance has been exacerbated by years of political crisis, conflict, displacement, and persistently poor socio-economic conditions. Consequently, a significant percentage of the present generation of school-age children may never have attended a single day of school.²³

Broadly speaking, it is estimated that less than 20% of the collective RAE population in Kosovo attends school beyond the age of twelve, with questionable attendance under that age. In comparison to almost universal primary school attendance for Albanian children, only about 75% of children from minority communities attend primary school. Non-attendance rates are particularly high among girls from RAE communities, with only about a third of RAE girls aged six to twelve attending school in any form. Of the small group that does attend, most drop out after primary school.²⁴

Education is the pivotal issue for the amelioration of the situation of the RAE communities in Kosovo. The lack of education of a vast majority of community members attributes to and perpetuates their marginalization. In the current situation, individuals from the RAE community have limited opportunities for employment in sectors that have the potential to effect positive change for their community — economically or in terms of heightened social standing. Without education — without a diploma — they will never be the future lawyers, doctors, police officers, firefighters, teachers, assistants, advisors, or secretaries of Kosovo. Their employment will remain poorly paid and irregular. There will also be little opportunity to improve upon their social standing or relations within communities across Kosovo.

Beyond the concrete connection between an education and employment opportunities, the experience of education provides for fundamental critical thinking and social networking and participation skills that enable individual and community success. In order to improve upon the quality of community representation and civil and political participation, it is necessary that RAE communities start attending school, the most basic of state-organized structures, alongside their peers.

A lack of concrete data on attendance rates of school children across Kosovo limits the ability of organizations to effectively find solutions for these communities. The RAE settlement of Plementina is a good example. Interviews suggest that RAE representatives themselves are unclear about the

²³ Note, for example, that approximately 50 % of the returnee population to the Roma Mahala in southern Mitrovica/e are children. Of these children, less than 20 % have ever attended school. Norwegian Helsinki Committee interviews with human rights actors in Mitrovica/e, July 2007.

²⁴ High drop-out rates after primary school are purportedly connected to the incidence of early marriages in communities.

most basic of statistics such as the age and number of school-going-age children in their community.

Furthermore, they appear unconcerned that a relatively small percentage of the children seem to be attending school, instead suggesting that the poor socio-economic situation and a general lack of priority on the part of parents fuels non-attendance. In this regard, incentive-based programs to reward children and their families for attendance were raised as options. Interviews with parents and children in the community also suggested low attendance rates and variable interest and/or priority for schooling among families. For most, school was perceived as a possibility for children, but certainly not a right that the state is obliged to fulfill.

Given that until early June 2007 the make-shift school in the settlement area was technically functional, it is concerning that RAE representatives did not at a minimum require the attendance of all children living within the four-block radius of the school. It is equally concerning that the municipal authorities responsible for education and the social welfare of communities failed to step in and take control of the situation, ensuring attendance as well as quality education opportunities.

As of early August 2007, just prior to the beginning of a new school year, it remained unclear which schools these children would attend. Although the nearby schools of Obilic seemed to be an option, with municipality-provided transportation, community representatives and parents have expressed concern about the safety of their children (especially young girls) should they decide to attend the school. They also relayed fears that their children, unused to mixing with the majority Albanian population, would be targeted by the other children and the subject of teasing and low-level harassment. The Norwegian Helsinki Committee is concerned about the lack of proactive and transparent involvement on the part of the municipality and community representatives to ensure the school attendance for all of the children living in this community.

The continued failure of authorities in Kosovo to ensure school attendance among all communities, even where difficult to achieve, is in violation of basic human rights standards and smacks of condescension and indirect discrimination. Such action has dramatic and potentially irreversible effects on the quality of life RAE communities enjoy. In addition, it directly impedes their capacity and opportunity to meaningfully address the dire circumstances in which they find themselves and their communities. It is imperative that both international and national actors in Kosovo take action to ensure that all children in the province are indeed receiving an education.

Community Identification and Returns

The distinction between being Roma, Ashkaeli, or Egyptian is not only an important factor in terms of social and/or self-identification, but also in terms of development aid and political participation or community representation opportunities. This is particularly so where returns are at issue.

In fact, community identification greatly impacts the assessment as to whether return of individuals to the province is feasible, within legal bounds, and worthy of the risk to political and physical security. The office of the United Nations High Commissioner for Refugees (UNHCR) has played an important role in the debate on return of members of the RAE communities.

In March 2006, the agency noted in a position paper that members of the Ashkaeli and Egyptian communities are no longer considered to be at risk. In contrast, Roma, Kosovo Serbs, and Albanians in a minority position continue to be at risk of persecution and should benefit from international protection. Their return to Kosovo should be on a strictly voluntary basis.²⁵ This means in effect that self-identification as Ashkaeli or Egyptian can have dire consequences vis-à-vis forced return and community development upon return. It also inadvertently affects the strategy for amelioration of communities' rights inside Kosovo given the relative strength of RAE diaspora communities in West European countries and their desire to remain abroad.

Other than the return of several dozen families to the former Roma Mahala in the southern part of Mitrovica there have not been large-scale organized returns projects for the RAE communities to date.²⁶ Instead most RAE returns are either spontaneous and on a voluntary small-scale basis or the result of a forced return from countries like Germany or other West European states.

Funding support for spontaneous returns to Kosovo has traditionally been much less substantial than that associated with the organized returns projects linked to Kosovo Serb returns.²⁷ This reality is further complicated by the fact that a large percentage of those individuals and families who return spontaneously are coming from the poorest and most appalling of conditions that leave them with no other choice but to risk return to Kosovo. This hardly puts them in a position with any real room for negotiation, instead aggravating their already vulnerable and un-prioritized position. As one long-standing Kosovo interlocutor stated, "[i]t is a mission impossible to get money for house reconstruction for a RAE [family]."²⁸

In contrast, there is a widespread belief among actors on the ground that there has been a political preference for the return of Kosovo Serbs to the province and that their community greatly benefits from this preference. Despite the overall return of less than 10 % of the displaced Kosovo Serb population, significant resources have gone into organized returns and reconstruction efforts for this community. A particular point of concern in this regard is that the actual return of individuals in the post-project, or post-reconstruction, phase is in many cases questionable. There are high

²⁵ For a critique of this position, see Amnesty International, *Kosovo (Serbia): No Forcible Return of Minorities to Kosovo*, AI Index: EUR 70/004/2007, May 2007.

²⁶ Ombudsperson Institution in Kosovo, Seventh Annual Report 2006 – 2007, "The situation of displaced persons and conditions for their return," July 2007, available at <http://www.ombudspersonkosovo.org>.

²⁷ Some interlocutors have also suggested that beyond the preference for Kosovo Serb returns in the first place the international community has demonstrated preferential treatment for Kosovo Serb returnees in terms of their freedom to sell reconstructed properties. Norwegian Helsinki Committee interviews with international and national interlocutors working in Kosovo, July and September 2007.

²⁸ Norwegian Helsinki Committee with Kosovo interlocutor, July 2007.

rates of partial and/or temporary or part-time returns, with only the heads of households returning or people returning on weekends or in the summertime.

Ironically, these types of returns are rarely seen in the RAE communities returning to Kosovo, where for the most part return includes full families complete with children and for the foreseeable future. This has led to frustration on the part of returns facilitators in Kosovo who express their concern that the returns of all who fled are not of equal priority and that in the case of RAE communities more generally their return is "just not a priority."²⁹

The political preference likely derives from the tenseness of Kosovo Albanian and Kosovo Serb relations and their ongoing struggle for status determination, which inherently depends on the success of achieving a climate for returns of minorities, in particular the Serbian minority. Belgrade's ongoing discourse about discrimination against the Kosovo Serb community and their lack of freedom of movement or safe living conditions, even if legitimate, further fuels these tensions and resulting priorities. As one returns facilitator pointed out:

Serbs are a political carrot if they return. RAE? It means troubles are on the way. . . . If you help one then [it is] a Pandora's box because there are so many RAE.³⁰

Beyond issues of reconstruction preference and development aid possibilities, there is the issue of involuntary return. Until recently there has been no material support for forced returns in Kosovo, with neither the governmental authorities nor the U.N. or returns organizations seeing such returns as their responsibility or within their mandate.³¹ This has meant that many of those returned come back to Kosovo in dire poverty without social assistance or employment opportunities. Frequently, they return without housing options as well since their properties, if they owned one, are uninhabitable since they were not reconstructed in the post-conflict period.³² Many of these individuals may also not be registered.

The impact on these communities is not limited to the individual ramifications for returnees who are at times forced to return after more than a decade away with school-age children who speak none of the languages in Kosovo and have never in fact set foot in the province. Return has also become a burden for community members who are already living in Kosovo. Despite the poverty in which they live, these individuals are inevitably tasked with the burden of sharing what little they have (basic shelter and food) with their newly arrived relatives or fellow community members.

The Ashkaeli community, and to some extent the Egyptian community, has undoubtedly been most affected by these policies.³³ Estimates that several thousand Ashkaeli persons could be forcibly returned to the municipality of Fushe Kosove/Kosovo Polje alone in the post-status period are

²⁹ Norwegian Helsinki Committee interview with returns officer working in Kosovo, July 2007.

³⁰ Norwegian Helsinki Committee interview, July 2007.

³¹ In recent months there appears to be a shift in the discourse, with much more expression of concern about the legality and advisability of such returns. There is also evidence of increased efforts on the part of receiving governments to soften "involuntary" returns with attractive returns packages under voluntary repatriation conditions. For further discussion of returns, including involuntary repatriation, see also Ombudsperson Institution in Kosovo, Seventh Annual Report 2006 – 2007, July 2007, available at <http://www.ombudspersonkosovo.org>.

³² There may also be concern about the prioritization of reconstruction and social assistance in majority Albanian municipalities where there are still large numbers of Albanian individuals in need of assistance. The fact that these individuals remained in Kosovo during the conflict also seems to impact upon their social prioritization over recently returned individuals from the RAE communities.

³³ Note that large numbers of Kosovo Albanians are also returned in this manner, but that the full spectrum of forced returns concerns are not covered by this report.

reason for serious concern given that the municipality already struggles to address the concerns of its current inhabitants.³⁴

As it is unlikely that West European governments will cease pursuit of returns, it is crucial that the government in Kosovo, centrally and at the municipal level, as well as returns actors in Kosovo seek to ensure adequate monetary and social policy support for persons upon their return. Protection of and respect for these communities is a prerequisite for maintaining the fragile stability that has been created in Kosovo over the past eight years. Regardless of individual community or ethnic identification, it is clear that returns should be carried out in an environment of safety and dignity.

³⁴ Norwegian Helsinki Committee interviews in Kosovo, March-July 2007. For further discussion of the impact of involuntary return, including estimated projections of return figures, from the RAE communities' perspective see Kosovo Roma and Ashkali Forum, "Our Position 2006," Position Paper 1/2006.

Conclusion

Any examination of the human rights situation of RAE communities in Kosovo reveals an appalling level of vulnerability within the communities. Generally speaking, they are poor. Many do not have documents to prove they exist or to help them access basic social services. Large numbers live at the mercy of relatives or friends, without a home and in a place they never called home. Less than one in five children attend school beyond the age of twelve. They cannot find work. And they seem indefinitely trapped between the politics of two communities who have little time or desire to devote to their priorities.

RAE communities in Kosovo are caught in a vicious circle. Because of their lack of documentation and education, concrete participation in civil and political life is difficult. Because they do not participate, they are not heard or prioritized, thus perpetuating the high levels of unregistered and uneducated community members. Moreover, when the communities do try to participate, their lack of experience and social cohesion impedes the effectiveness of their contribution. This, in turn, serves to reinforce the idea that it is not worth participating because too few listen and not enough changes anyway, thus exacerbating steps toward building up an experience and knowledge-base in community organization and civil and political participation capable of overcoming these obstacles.

It is crucial that the international community commit itself to prioritizing the rights of this community. They, and their national counterparts in Kosovo, must take a proactive role in breaking this destructive cycle.

Concretely, it is necessary that comprehensive and unbiased research be conducted within the communities to ascertain the level of non-attendance of children in schools and to improve upon the obstacles preventing efficient and bureaucratic-light registration. The assessment should ideally be performed by independent and external interlocutors and provide specific and workable initiatives for improvement in the short-, medium-, and long-term. It will also be important that the United Nations apparatus in Kosovo and its partners re-examine their policy of returns, both voluntary and involuntary. Returns must take place in dignity and with the greater interest of all communities.

Protection of and respect for RAE communities will prove a prerequisite for maintaining the fragile stability that has been created in Kosovo over the past eight years. To treat their plight as a throw-away cause because they are easily forgotten would be a dire mistake and in blatant violation of the respect for and adherence to human rights standards.