

## **Roma and the Kosovo War, 1998-9: General Amnesia or a Human Right to Memory?**

*Rainer Schulze*

The Gypsy problem is a litmus test not of democracy but of a civil society. The two are certainly two sides of the same coin; one is unthinkable without the other. One means legislation to enable the people to vote and make them the source of power. The civil society is related to human behavior.  
Václav Havel <sup>1</sup>

The Kosovo conflict is usually seen as a conflict between ethnic Serbs and ethnic Albanians. It was the escalating armed conflict between these two ethnic groups following the revoking of Kosovo's autonomy by the Milošević regime in Belgrade in 1989 which led to NATO's military intervention in the spring of 1999.

However, this focus on the Serbian-Albanian confrontation meant that the fate of the Roma, Ashkali and Egyptian communities in this conflict has been largely overlooked. Both within Kosovo and outside, their experiences and memories remain mostly unconnected to the wider narrative and collective memory of the conflict, even though the Roma<sup>2</sup> constituted a significant proportion of the overall population and one upon whom the conflict had an enormous impact.

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Roma have lived in the region since the late 1300s, having migrated there along with, or just ahead of, the Ottoman advance into the Balkans. During the long centuries of Ottoman rule most Roma in Kosovo converted to Islam and many adopted Albanian as their language, losing their Romani language in the process. Those Roma who settled among the Serbs further north became 'Serbianised' in language, culture and religion.

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· Professor of Modern European History, University of Essex. 2011–2013 Director of the Essex Human Rights Centre. The article was written in February-March 2013.

<sup>1</sup> Cited in Henry Kamm, 'Havel Calls The Gypsies "Litmus Test"', *International Herald Tribune / The New York Times*, 10 December 1993.

<sup>2</sup> In the following, the term 'Roma' is used to refer to all the Romani populations in Kosovo: Roma, Ashkali and Egyptians, except when it is important to differentiate between the three groups.

In post-World War II Yugoslavia, Roma were recognised as an official ethnic minority with the right of their own language and culture, and there was even some primary school education in Romani. This notwithstanding, on the municipal level prejudices persisted and discrimination continued. The official 1981 Yugoslav census counted 34,126 Roma in Kosovo, making up 2.2 per cent of the total population. The census of 1991 was boycotted by the Kosovo Albanians, and the Yugoslav Federal Statistical Office estimated the number of Roma in Kosovo to have gone up to 45,745 or just over 2.3 per cent.<sup>3</sup> However, there is little doubt that the official censuses seriously deflated the number of Roma. Some Roma practiced ‘ethnic mimicry’ and preferred to register as Albanian, Serb, Turk or Yugoslav in order to evade discrimination as Roma; others were given non-Romani names by municipal authorities and pressured into registering under other nationalities in order to increase the numbers of these nationalities in the census. In the case of Kosovo this mostly favoured the Albanians.<sup>4</sup>

It is, therefore, notoriously difficult to gauge the exact number of Roma in Kosovo before the start of the armed conflict; estimates vary, with many suggesting that it was probably three to four times as many as the official figures state, which would mean 100,000 to 150,000, or between 5 and 10 per cent of the overall population.<sup>5</sup> The situation is further complicated because, since the late 1980s / early 1990s, the authorities (first Serbian, later Kosovar) encouraged the establishment of three distinct communities, of which only one identifies itself as Roma or Romani, whereas the other two, the Ashkali (or Askhaelia, Ashkalija) and the Egyptians, reject this term. Most Ashkali are native Albanian speakers and do not speak Romani; Egyptians are also, by and large, Albanianised Roma, but aim to counter the process of their Albanianisation and base their claim of a different identity on their alleged Egyptian origin. The differences are more about political expediency, geographic location and self-assertion of identity rather than actual ethnic dividers. Many Ashkali and Egyptians will have been registered in earlier censuses as Albanians.

In today’s Kosovo, the three communities (Roma, Ashkali and Egyptians) are usually grouped together as RAE. In 2006, the Statistical Office of Kosovo estimated their number to be 23,512, or 1.1 per cent of the population – which is about half the official (already seriously deflated) 1991 number of Roma in Kosovo. This gives an indication of the huge scale of Roma displacement: around 100,000, possibly even more, are thought to have fled their homes in Kosovo as a result of the conflict. In contrast, Kosovo’s overall population was estimated to have grown by 143,804 inhabitants or 7.4 per cent between 1991 and 2006.<sup>6</sup> The 2011 census,

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<sup>3</sup> Statistical Office of Kosovo, ‘Demographic Changes of the Kosovo Population 1948–2006’ (February 2008), at 7, Table 2. For the movement of the Roma population over the years, see also at 10, Graph 5. Available at: [http://esk.rks-gov.net/ENG/publikimet/doc\\_download/521-demographic-changes-of-the-kosovo-population-1948-2006](http://esk.rks-gov.net/ENG/publikimet/doc_download/521-demographic-changes-of-the-kosovo-population-1948-2006). Last accessed 5 March 2013.

<sup>4</sup> See: Orhan Galjus, ‘Roma of Kosovo: the Forgotten Victims’, *The Patrin Web Journal: Romani Culture and History*, 7 April 1999. Available at: <http://www.reocities.com/Paris/5121/kosovo.htm> (last accessed 27 February 2013).

<sup>5</sup> Galjus, n.5 above; various OSCE Mission in Kosovo reports. Available at: <http://www.osce.org/kosovo>. Last accessed 27 February 2013.

<sup>6</sup> ‘Demographic Changes of the Kosovo Population’, n.3 above, at 7, Table 2.

which excluded the three northern municipalities of Zvečan, Leposavič and Zubin Potok as well as Mitrovica North (all of which are Serbian dominated and governed),<sup>7</sup> disambiguated the RAE into Roma, Ashkali and Egyptians once more. Their total number in the thirty-four municipalities covered by the census was 35,784, or just over 2 per cent of the population.<sup>8</sup>

The Roma communities had largely tried to avoid involvement in Kosovo politics and stay out of the Serbian-Albanian conflict. However, this was no longer an option once Kosovo's autonomy had been revoked in 1989. The Milošević regime in Belgrade 'invited' Roma to see their interests with the Serbs: Serbian authorities allowed some Roma schools to continue operating in Kosovo; Roma children attending Serbian schools were not removed like ethnic Albanian children; Roma were not subjected to summary dismissals from their jobs in the way ethnic Albanians were. Luan Koka, the self-styled leader of the Kosovo Roma, was a member of the Serbian delegation at the Rambouillet talks of February 1999<sup>9</sup> and publicly declared that the Roma in Kosovo supported the Serbs. Some Ashkali identified with the Albanians; other Ashkali aligned themselves with the Serbian authorities re-classifying themselves as Egyptians. During the NATO military intervention, Roma, Ashkali and Egyptians were involved on both sides – some voluntarily, but most coerced and under pressure.

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The immediate aftermath of the war in Kosovo was a period of turmoil and chaos, with law and order collapsing, and the international community initially unable to do anything about it. With the return of the Kosovo Albanians to their homes, it was not only the remaining Serbs who became the target of a campaign of violent retaliation, but also the Roma populations. Many Albanians regarded them as willing collaborators in the repression of their community during the years of Serbian rule. Like the Serbs, Roma were subjected to physical abuse, destruction of

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<sup>7</sup> Language is one of the many battlegrounds in post-conflict Kosovo. Since Anglicised names for localities in Kosovo do not exist (with the exception of the capital Pristina – as opposed to the Serbian name Priština and the Albanian name Prishtina or Prishtinë), I am using the Albanian names for Albanian-governed localities and the Serbian names for Serbian-governed localities. Only when referring to localities which are straddling the two ethnic groups will both the Albanian and Serbian names (in this order) be used.

<sup>8</sup> Kosovo Agency of Statistics, 'Kosovo Population and Housing Census 2011: Final Results; Main Data' (2012), at 60, Table 3.13. *See also* at 143, Table 5.4, [http://esk.rks-gov.net/rekos2011/repository/flipbook/2/Final%20Results\\_ENG/#/0](http://esk.rks-gov.net/rekos2011/repository/flipbook/2/Final%20Results_ENG/#/0) (last accessed 5 March 2013). The estimation of population by ethnic composition for Zvečan, Leposavič, Zubin Potok and Mitrovica North only differentiates between 'Albanian' and 'Serbs and others': Kosovo Agency of Statistics, 'Estimation of Kosovo Population 2011' (February 2013), at 20, Table 6. Available at: <http://esk.rks-gov.net/eng/images/files/ESTIMATION%20of%20Kosovo%20population%202011.pdf>. Last accessed 5 March 2013.

<sup>9</sup> In a final, last-minute attempt to find a settlement for the conflict between the Kosovo Liberation Army (KLA, or Ushtria Çlirimtare e Kosovës, UÇK) and Serbian forces, the so-called 'Contact Group' (The United States, Britain, France, Russia, Germany and Italy) convened talks between a Serbian delegation and a delegation of Kosovo Albanians to discuss proposals for the future status of Kosovo at the Château de Rambouillet, outside Paris, in February 1999. Belgrade's refusal to sign the draft 'Interim Agreement for Peace and Self-Government in Kosovo' triggered NATO's military intervention in the conflict.

their property, eviction from their homes, rape, and murder. The NATO-led international peacekeeping force, KFOR, proved ineffective in protecting them from these acts of revenge.<sup>10</sup> Tilman Zülch, co-founder and president of the Göttingen-based *Gesellschaft für bedrohte Völker* (Society for Threatened Peoples), set out:

‘I witnessed on the spot the failure of the soldiers and security forces of the western countries, when 70 out of 75 settlements and estates were destroyed or burned down by Albanian extremists. This was the worst Gypsy pogrom since 1945. The members of this minority were attacked, mishandled, tortured, raped, abducted or killed. About 120,000 of the 150,000 Romany fled from the country. Those who remained were often cooped up in camps surrounded by barbed wire, which were nevertheless threatened or even attacked at night. The NATO troops did not protect the threatened Romany people, although they were able shortly before to secure the return of a million Albanian refugees.’<sup>11</sup>

Mitrovicë/Mitrovica is a case in point. Its Roma Mahalla,<sup>12</sup> located on the south bank of the Ibar River, was one of the largest Roma settlements until the Kosovo War. Covering some 21 hectares, it comprised just under 700 houses and was home to around 8,000 Roma, Ashkali and Egyptians. Immediately following the end of the war, extremist Kosovo Albanians began their campaign to drive all Roma out of the Mahalla. The first KFOR troops arrived in Mitrovica on 17 June 1999 and their deployment was complete by 25 June. However, they only managed to secure the area of the Roma Mahalla by 2 July after the deployment of extra resources which followed the discovery of the remains of a Roma leader inside his burned house on 29 June. By the end of June, most Roma had already fled the Mahalla. By August/September, the Mahalla was completely abandoned, and the houses were looted and partly dismantled by ethnic Albanians, with everything usable, from furniture to doors, windows, beams and roof tiles, taken away without KFOR troops intervening.<sup>13</sup>

However, what is often not mentioned is the fact that at this point the Mahalla was not totally burned to the ground: indeed, despite all the destruction, the individual houses were still recognisable. They were in ruins, but some of the basic structures were still standing, a fact evidenced by photographs.<sup>14</sup> These remains only disappeared in 2006, when KFOR troops came

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<sup>10</sup> Claude Cahn, ‘Justice for Kosovo’, *Roma Rights Quarterly*, 2005, No. 3-4, at 3-9.

<sup>11</sup> Gesellschaft für bedrohte Völker, ‘The planning of forced deportations is a relapse into the worst time of the persecution of the “gypsies”’, press release, 15 April 2010. Available at: <http://www.gfbv.de/pressemit.php?id=2248&stayInsideTree=1>. Last accessed 27 February 2013.

<sup>12</sup> Mahalla (or Mahala) is a term used throughout much of the Balkans for a relatively independent neighbourhood or quarter of a larger village or town, often with its own school and religious building. The term probably originates from Arabic and was introduced in the Balkans during the Ottoman period.

<sup>13</sup> Organization for Security and Co-operation in Europe / OSCE Mission in Kosovo, *Human Rights in Kosovo: As Seen, As Told*. Vol. 2: 14 June – 31 October 1999, at 102-3, 133 and 140.

<sup>14</sup> See, for example: Human Rights Watch, *Kosovo: Poisoned by Lead – A Health and Human Rights Crisis in Mitrovica’s Roma Camps*. Researched and written by Wanda Troszczynska-van Genderen. New York: HRW,

in with bulldozers following a request from the Mitrovicë local authority to clear the area. All the remaining structures of the Mahalla were turned into the rubble which can still be seen today. As a result many former inhabitants of the Mahalla found it difficult to identify the site of their original plots and establish ownership rights.

The majority of the refugees from the Mahalla found shelter in camps in Montenegro and Serbia proper; some managed to join relatives or friends in Western Europe, in particular in Germany. However, some 800 destitute Roma were left stranded on the northern side of the Ibar River, initially squatting in a Serbian school house in Zvečan. Some were moved, in late September 1999, to Žitkovac camp in Zvečan, where they were housed in tents, others to Česmin Lug camp (in northern Mitrovica), where makeshift huts were set up; yet others occupied the abandoned Serbian army barracks at Kablare (next to Česmin Lug camp). All three sites were in close proximity to the vast Trepča mining complex, on land contaminated by lead and other heavy metals, although the environmental pollution caused by the lead smelters and the huge tailings was well known. The camps were intended to be temporary solutions for at most forty-five days, until the UNHCR could find a permanent solution.<sup>15</sup>

However, these make-shift camps turned out to be anything but temporary. Osterode, the last of the Roma IDP (internally displaced people) camps on toxic wasteland in northern Mitrovica, was only closed in December 2012. MercyCorps, the American NGO that implemented the relocation with funds provided by the United States Agency for International Development (USAID) and the European Union, hailed the closure of Osterode ‘a monumental event in the city of Mitrovicë’ and celebrated it

‘by boarding up windows, padlocking the rundown building and containers, and handing the keys over to the UN officials. [...]

Seeing children play in their new safe, lead-free homes in Kosovo was testament to a successful model of reconstruction, reintegration and ultimately restarting of people’s lives so that opportunity can blossom for the future.’<sup>16</sup>

Obviously the evacuation of people from dangerously contaminated sites can only be applauded, but, looking beyond the relief that the issue of the lead-poisoned camps in northern Mitrovica

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2009), at 2-3. Also available at: [http://www.hrw.org/sites/default/files/reports/kosovo0609web\\_0.pdf](http://www.hrw.org/sites/default/files/reports/kosovo0609web_0.pdf). Last accessed 27 February 2013.

<sup>15</sup> *ibid.*, at. 4 and 14. *See also*: Fluvio Report 2010/02/66: Geochemical assessment of soils in Roma Mahalla, Mitrovica, Kosovo: implications for the proposed resettlement of families presently living in the Osterode and Česmin Lug Camps. Report for the Foreign and Commonwealth Office by Fluvio, Institute of Geography and Earth Sciences, University of Wales, Aberystwyth, at 2-3 (hereafter Fluvio Report 2010/02/66). Available at: <http://ukinkosovo.fco.gov.uk/resources/en/pdf/report>. Last accessed 27 February 2013. About 50 Roma families from the Mahalla ended up in the town of Leposavič, in the most northern tip of Kosovo, where they were housed in an abandoned army warehouse.

<sup>16</sup> Zoe Hopkins, ‘New homes after more than a decade of displacement’, 13 February 2013. Available at: <http://www.mercycorps.org/zoehopkins/blog/28186>. Last accessed 27 February 2013.

has at long last been resolved, it must not be forgotten that it took more than thirteen years to close these camps, that the ‘re-integration’ of their residents into Kosovo’s society is marred with problems, and that numerous other makeshift Roma camps (both legal and illegal) continue to exist, both in Kosovo and in neighbouring countries. Living conditions in all these camps are sub-standard, to put it mildly, and – in a perverse way – actually play to the age-old prejudices of main-stream society against the ‘Gypsies’: that they are dirty, will not keep a place tidy, and love nothing better than to live in dirt and squalor.

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The right of people displaced by war and internal conflict to return to their former homes or places of residence is part of customary international humanitarian law. The UN Security Council explicitly reaffirmed this right in its Resolution 1244 on Kosovo and set out that one of the main responsibilities of the international civil presence was to assure ‘the safe and unimpeded return of all refugees and displaced persons to their homes in Kosovo’.<sup>17</sup> Compromising on this principle runs the risk of encouraging local authorities to move groups of refugees and displaced persons to areas they would rather not see return to their original homes to much less attractive areas and use the site of their original homes for other purposes. Again, the Roma Mahalla in Mitrovicë is a case in point: the site constitutes a prime location, on the southern bank of the Ibar River, in the less contaminated part of the town,<sup>18</sup> and in close proximity to the centre of south Mitrovicë. It is, therefore, highly desirable for development into a public park and recreation area for the citizens of Mitrovicë (which south Mitrovicë currently lacks – all public parks and recreation areas are located in the northern part), or for selling off to private developers.

Implementing Resolution 1244 and assuring ‘the safe and unimpeded return of all refugees and displaced persons to their homes in Kosovo’ proved particularly difficult in the case of the Roma communities. Hardly any uprooted Roma have actual homes to return to. Their properties were destroyed or are now used by others, mostly members of the ethnic Albanian majority, and it has proven difficult and often impossible for Roma to regain them. Many Roma settlements pre-conflict were so-called ‘informal settlements’: most buildings were not registered in the cadastre (the public register which shows the details of ownership, tenure, location and value of individual parcels of land in a given area), and only few residents possessed the documentation required to prove ownership, even though many had lived in their houses for more than a generation. Whilst Kosovo institutions have accepted their obligation to regularise former ‘informal settlements’ by providing residents with ‘legal security of tenure’, integrating these settlements ‘into the municipalities’ spatial and urban plans’ and improving ‘access to housing assistance and other public services’,<sup>19</sup> this process often faces immense bureaucratic hurdles on

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<sup>17</sup> United Nations Security Council Resolution 1244 (1999), adopted by the Security Council at its 4011th meeting on 10 June 1999, Para.11 (k). Available at: <http://www.un.org/docs/scres/1999/sc99.htm>. Last accessed 27 February 2013.

<sup>18</sup> See: Fluvio Report 2010/02/66, n.15 above.

<sup>19</sup> Republika e Kosovës/Republika Kosova/Republic of Kosovo, ‘Strategy for the Integration of Roma, Ashkali and Egyptian Communities in the Republic of Kosovo, 2009 – 2015’, December 2008, at 39-45, here at 39. Available

the local level. Even when Roma originally had official documentation of their properties, this was often lost or destroyed in the turmoil of the conflict.

Moreover, in addition to allocating sufficient and adequate housing with security of tenure, any relocation from a camp to a permanent settlement also needs to provide longer-term employment opportunities as well as access to education and medical care. Roma also continue to be concerned about their personal security. They are still traumatised by their experience of flight or violent eviction, and many fear that something similar might happen again when they return to their former homes.

Most importantly, however, because it impacts on everything else, is the fact that in the attempt to defuse the Serb-Albanian confrontation, the situation of the Roma at best constituted a side issue and at worst was overlooked. Warnings by individual human rights campaigners and international Roma organisations were not sufficient to bring about a sustainable solution for the Roma communities – indeed, these warnings did not even manage to catch the attention of the mainstream international media for more than very short moments.

This was also true with regard to the lead-poisoned IDP camps in northern Mitrovica, even though the serious health implications of accommodating uprooted people in close proximity to the vast Trepča mining complex had been well known and documented since late 1999 / early 2000.<sup>20</sup>

In the summer of 2000, the World Health Organization (WHO) undertook a medical survey of Mitrovicë/Mitrovica because many UN police and French soldiers stationed in this locality were found to have high levels of lead in their blood. In November 2000, the WHO presented their health report to the United Nations Interim Administration Mission in Kosovo (UNMIK), pointing out that most people living in Mitrovicë/Mitrovica were suffering from lead poisoning,

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at: [http://www.kryeministri-ks.net/zck/repository/docs/Strategy\\_for\\_the\\_Integration\\_of\\_Roma,\\_Ashkali\\_and\\_Egyptian\\_communities\\_2009-2015.pdf](http://www.kryeministri-ks.net/zck/repository/docs/Strategy_for_the_Integration_of_Roma,_Ashkali_and_Egyptian_communities_2009-2015.pdf) (last accessed 5 March 2013); *See also*: Republika e Kosovës/Republika Kosova/Republic of Kosovo, ‘The Republic of Kosovo Action Plan on the Implementation of the Strategy for the Integration of Roma, Ashkali and Egyptian Communities, 2009 – 2015’, at 71-6. Available at: [http://www.kryeministri-ks.net/zck/repository/docs/Action\\_Plan\\_on\\_the\\_Implementation\\_of\\_the\\_Strategy\\_for\\_the\\_Integration\\_of\\_Roma,\\_Ashkali\\_and\\_Egyptian\\_Communities\\_2009-2015.pdf](http://www.kryeministri-ks.net/zck/repository/docs/Action_Plan_on_the_Implementation_of_the_Strategy_for_the_Integration_of_Roma,_Ashkali_and_Egyptian_Communities_2009-2015.pdf). Last accessed 5 March 2010. These obligations were already set out in the Vienna Declaration on Informal Settlements in South Eastern Europe of 28 September 2004 (which Kosovo signed on 17 March 2005), esp. Point VI. Available at: [http://www.stabilitypact.org/housing/f%20-%20050415\\_Vienna%20Declaration.pdf](http://www.stabilitypact.org/housing/f%20-%20050415_Vienna%20Declaration.pdf). Last accessed 5 March 2013. They are also included in the 2005 ‘Pinheiro Principles’ (United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons), esp. Principle 16; *See*: Centre on Housing Rights and Evictions (COHRE), *The Pinheiro Principles*, at 17. Available at: <http://www.unhcr.org.ua/img/uploads/docs/PinheiroPrinciples.pdf>. Last accessed 5 March 2013. Neither document, however, is not legally binding. Security of tenure is closely linked with land use allocation for a defined period of time, with 99-year leases generally seen as giving the best chance for sustainable development.

<sup>20</sup> For more details on these lead-poisoned camps, see: Paul Polansky, ‘Roma in UN Camps in North Kosovo: Poisoned by Lead’, *The Holocaust in History and Memory*, vol. 3 (2010), at 109-16; Rainer Schulze, ‘The Roma IDP Camps in Northern Mitrovica, Kosovo: Many Troubling Questions and Far Too Few Answers’, *The Holocaust in History and Memory*, vol 4 (2010), at 119-38.

but that the worst effected were the Roma living in the makeshift camps. The WHO, therefore, strongly recommended that the camps be evacuated and the areas securely fenced off. The then Special Representative of the UN Secretary-General for Kosovo, Bernard Kouchner, himself a medical doctor and co-founder of Médecins Sans Frontières (and later French Minister of Foreign and European Affairs), ordered the smelter at the Trepča mines to be closed, but did not evacuate the camps on the toxic wasteland.

In the summer of 2004, following the death of a four-year-old Roma girl as a result of lead poisoning, the WHO conducted a special investigation in the three camps. Blood samples showed that many Roma children had unprecedented lead levels - many of which were higher than the WHO machines could register. In their report of October 2004, the WHO again recommended the immediate evacuation of the camps.<sup>21</sup>

In February 2005, after visiting the camps, Dr Rokho Kim, a WHO expert on lead poisoning, described the situation as ‘one of the most serious lead-related EH (Environmental Health) disasters in the world and in history’.<sup>22</sup> Dr Kim set out:

‘The present situation in the Roma community who are now living in the camps is extremely, extremely serious. I have personally researched lead poisoning since 1991, but I have never seen in the literature a population with such a high level of lead in their blood. I believe that the lead poisoning in north Mitrovica is unique, which has never been known before in history. This is one of the biggest catastrophes connected with lead in the world and in history.’<sup>23</sup>

This assessment led to UNMIK setting up the Mitrovicë/Mitrovica Action Team in April 2005, a task force with the brief to develop a framework for the evacuation of the lead-contaminated camps. Two of the lead-poisoned camps (Žitkovac and Kablare) were closed in March/April 2006; all the people who had lived there were moved to a new temporary location in northern Mitrovica, Osterode. However, this new site, a former Serbian Army tank repairs shop which had been taken over by NATO and used as barracks for the French troops stationed in northern Kosovo, was situated in the immediate proximity of Česmin Lug and the closed-down Kablare camps, and the French had abandoned it in October 2005 when their soldiers showed worryingly high lead levels in their blood.

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<sup>21</sup> World Health Organization Kosovo, ‘Memorandum: Capillary Blood Lead Confirmation and Critical Lead-related Health Situation of the Roma Camps Children’, 22 October 2004. Available at: <http://kosovoroma.files.wordpress.com/2008/05/who-report-october-2004.pdf>. Last accessed 27 February 2013.

<sup>22</sup> ‘The Way Forward Regarding the Roma, Ashkaeli and Egyptians (RAE) and the Lead Contamination’, Appendix 1. Background paper forwarded to the ERRC on 31 May 2005 by Laurie Wiseberg, Minority Rights Advisor and Executive Officer for Return to Roma Mahala Project, UNMIK. Cited in European Roma Rights Centre (ERRC), ‘Written Comments of the European Roma Rights Centre Concerning Kosovo For Consideration by the United Nations Human Rights Committee On the Occasion of Review of the Country Report of Task Forces on UNMIK’, 20 February 2006, at 9, note 27. Available at: <http://www.errc.org/cikk.php?cikk=2531>. Last accessed 27 February 2013.

<sup>23</sup> *The Kosov@ Post*, Edition 8, 28 July 2008, at 1.

The stay in Osterode was again labelled temporary as there were renewed attempts to reconstruct the Roma Mahalla on the southern bank of the Ibar River. Under the '18 April 2005 Agreement' between the Mitrovicë/Mitrovica municipality, the OSCE, UNMIK and the UNHCR, the municipality and UNMIK allocated 3.5 hectares to the Roma community, and in the first phase of the 'Roma Mahalla Return Project', six blocks of flats and some fifty-four individual houses were constructed. In early March 2007, the first eighteen families, comprising 118 people returned to the Mahalla; by October the number of returnees had risen to around 500. However, the majority of them came from camps in Montenegro and Serbia proper; only a smaller number came from the two lead-contaminated camps Osterode and Česmin Lug.<sup>24</sup> Nonetheless, the then Special Representative of the UN Secretary-General for Kosovo and Head of UNMIK, Joachim Rucker, hailed the beginning of the return of Roma families to the Roma Mahalla as signalling 'how much the municipality is welcoming all returnees'.<sup>25</sup>

In the autumn of 2005, in order to highlight the total extent of the poisoning of residents still living in the camps, the *Gesellschaft für bedrohte Völker* had sent a fact-finding mission to northern Mitrovica with the German specialist for environmental medicine Dr Klaus-Dietrich Runow: 'The result could not have been more distressing.'<sup>26</sup> Runow took sixty-six hair and blood tests which confirmed the unprecedented high levels of lead in residents' bodies, in addition to extremely high concentrations of various other toxic elements, including: antimony, aluminium, cadmium, tin, manganese and vanadium.<sup>27</sup> However, progress in evacuating the camps was painfully slow and at times stalled completely. A background report compiled by the OSCE Mission in Kosovo in February 2009 highlighted the lack of progress, using almost the same words as the 2005 report by WHO expert Rokho Kim: '[t]he lead contamination of the displaced Roma in northern Mitrovica/Mitrovicë camps is one of the biggest medical crises in

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<sup>24</sup> For the first forty-eight flats that became available (in the four blocks of flats which were completed first), the Mitrovicë/Mitrovica municipality received ninety applications: thirty from Roma displaced in Serbia proper, eleven from Roma displaced in Montenegro, thirty-one from Roma housed in Osterode and Česmin Lug camps and eighteen from Roma housed in Laposavič camp. In order to ensure a balance among the displaced Roma returning to the Mahalla, sixteen flats were allocated to families in Serbia proper, six to families in Montenegro, seventeen to Roma families in Osterode and Česmin Lug camps, and nine to families in Laposavič camp. In the end some families from Laposavič camp decided not to return to the Roma Mahalla after all, so that the final number does not fully reflect this allocation.

<sup>25</sup> UNMIK Press Release UNMIK/PR/1661, 'Return to the Roma Mahala in Mitrovicë/Mitrovica', 30 March 2007. Available at: [http://www.unmikonline.org/dpi/pressrelease.nsf/0/1839E58541DC75A2C12572B10025E8B7/\\$FILE/pr1661.pdf](http://www.unmikonline.org/dpi/pressrelease.nsf/0/1839E58541DC75A2C12572B10025E8B7/$FILE/pr1661.pdf). Last accessed 8 August 2010.

<sup>26</sup> Society for Threatened Peoples (Gesellschaft für bedrohte Völker), 'Highest Level of Lead Contamination Ever Registered in Samples of Human Hair – Under the eyes of the UNMIK: 560 Roma refugees exposed to deadly heavy metals since 1999', documentation, December 2005, at 5. Available at: [http://www.gfbv.de/show\\_file.php?type=inhaltsDok&property=download&id=596](http://www.gfbv.de/show_file.php?type=inhaltsDok&property=download&id=596). Last accessed 5 March 2013.

<sup>27</sup> *ibid.*, at 7-8; *see also*: Annex, at 22-4.

the region.’<sup>28</sup> The Human Rights Watch report of June 2009 likewise denounced the international community for their continued failings:

‘The story of lead-poisoned Roma IDPs constitutes one of the most glaring examples of negligence and failure of the international authorities in Kosovo to address serious human rights violations of its most vulnerable population. Mandated and put in charge to facilitate returns and protect the minorities and displaced, none of the key international organizations, including UNMIK and UNHCR, have done enough to address the problem, which persists today.’<sup>29</sup>

However, it took another forty-two months, or three-and-a-half years, until the last residents from Osterode were evacuated and the lead-poisoned camp was closed.<sup>30</sup> Although they rarely managed to get the attention of the international media, it was only due to international human rights organisations, and, above all, individual activists such as Paul Polansky - with his often polemic publications<sup>31</sup>, his prize-winning film<sup>32</sup> and his tireless campaigns since the beginning of the Kosovo War in 1999<sup>33</sup> - that the issue of the lead-poisoned camps was not completely ignored.

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Roma who managed to flee to Western Europe did not fare all that much better. The case of Germany is a very poignant example. Up to 25,000 Roma fled Kosovo and settled in Germany to escape the increasing ethnic strife in their home region. Some came to Germany as early as the 1990s - the majority arrived after the war of 1999. In most cases, the German authorities only ‘tolerated’ the stay of these refugees, expecting them to leave Germany once a safe return to Kosovo became possible. From 2000 onwards, the German authorities encouraged voluntary

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<sup>28</sup> Organization for Security and Co-operation in Europe, OSCE Mission in Kosovo, ‘Background Report: Lead contamination in Mitrovicë/Mitrovica affecting the Roma Community’, February 2009’, at 1. Available at: <http://www.osce.org/kosovo/36234>. Last accessed 27 February 2013.

<sup>29</sup> Human Rights Watch, n.14 above, at 59.

<sup>30</sup> The frequent change in responsibility for the Roma IDP camps did not help matters. Initially, from 1999 to 2001, the UNHCR was in charge, but in October 2001 responsibility passed to UNMIK. In 2006, the actual management of the two camps Osterode and Česmin Lug was given to Norwegian Church Aid, one of the many international NGOs engaged in Kosovo. In May 2008, UNMIK handed overall responsibility for the two camps to the Kosovo Ministry of Community and Returns, with Norwegian Church Aid remaining actual managers until January 2009, when the Kosovo Agency for Advocacy and Development (KAAD), a local NGO funded by the Kosovo Ministry for Communities and Returns, was put in their place.

<sup>31</sup> Paul Polansky, *UN-leaded Blood*, Knez Selo: Kosovo Roma Refugee Foundation, 2005; Paul Polansky, (*The Kosovo Anti-Heroes Awards for*) *Deadly Neglect*, Knez Selo: Kosovo Roma Refugee Foundation, 2010.

<sup>32</sup> *Gypsy Blood: The Roma, Ashkali, and Egyptian IDPs of Mitrovica, Kosovo*, USA 2005. Documentary film by Daniel Lanctot and the Kosovo Roma Refugee Foundation, c.15mins. The film was named best informative film at the 2005 Golden Wheel International Film Festival in Skopje, Republic of Macedonia.

<sup>33</sup> Supported by the British based Kosovo Medical Emergency Group. *For more information, see:* <http://www.toxicwastekills.com>. Last accessed 2 March 2013.

repatriation of Kosovo refugees, although Roma were initially excluded from this. The United Nations Interim Administrative Mission in Kosovo (UNMIK) normally rejected the return of both Roma and Serbs to Kosovo because their safety could not be assured.

On 17 February 2008, 109 members of the National Assembly in Pristina in their personal capacity as ‘the democratically-elected leaders of our people’ declared Kosovo to be ‘an independent and sovereign state’, and vowed to ensure that it would ‘be a democratic, secular and multi-ethnic republic, guided by the principles of non-discrimination and equal protection under the law’ and ‘protect and promote the rights of all communities in Kosovo and create the conditions necessary for their effective participation in political and decision-making processes’.<sup>34</sup> The declaration of independence was highly controversial. The United States and the United Kingdom, together with six other countries, immediately recognised the Republic of Kosovo as an independent state on 18 February 2008; Germany followed on 20 February. Russia condemned the declaration, and Serbia called it illegal. The UN General Assembly decided to refer the decision to the International Court of Justice which, on 22 July 2010 in a non-binding ruling, by a vote of 10 to 4, gave the advisory opinion ‘that the declaration of independence of Kosovo adopted on 17 February 2008 did not violate international law’.<sup>35</sup> Currently (February 2013), ninety-eight member states of the UN have recognised Kosovo’s independence,<sup>36</sup> but Kosovo has not yet made any application for UN membership.

Following Kosovo’s declaration of independence and with its new constitution coming into force, many of UNMIK’s responsibilities were transferred to Kosovo institutions which were more willing to take in returnees from abroad than UNMIK had been. Germany quickly stepped up its efforts to repatriate refugees from Kosovo, including Roma. (Forced) returns from Germany began in 2008, and on 14 April 2010, the German Interior Minister Thomas de Maizière and his Kosovo counterpart Bajram Rexhepi signed a formal agreement on the return of refugees from Germany to Kosovo.<sup>37</sup> The German side declared that it planned no mass forced returns and that a maximum of 2,500 people would be affected per year. The intention was to repatriate a total of 14,000 refugees from Kosovo, 10,000 of whom were Roma.

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<sup>34</sup> ‘Kosovo Declaration of Independence’. Available at: <http://www.assembly-kosova.org/?cid=2,128,1635>. Last accessed 27 February 2013; Albanian original available at: [http://www.assembly-kosova.org/common/docs/proc/trans\\_s\\_2008\\_02\\_17\\_al.pdf](http://www.assembly-kosova.org/common/docs/proc/trans_s_2008_02_17_al.pdf). Last accessed 27 February 2013. The eleven members representing the Serbian community had boycotted the meeting of the Assembly.

<sup>35</sup> International Court of Justice, Year 2010, 22 July 2010 (General List No.141), ‘Accordance with International Law of the Unilateral Declaration of Independence in respect of Kosovo’, at 44. Available at: <http://www.icj-cij.org/docket/files/141/15987.pdf>. Last accessed 27 February 2013.

<sup>36</sup> See: <http://www.kosovothanksyou.com/>. Last accessed 27 February 2013. At the time of writing, Egypt’s recognition of Kosovo on 17 February 2013 is awaiting confirmation.

<sup>37</sup> ‘Bekanntmachung des Abkommens zwischen der Regierung der Bundesrepublik Deutschland und der Regierung der Republik Kosovo über die Übernahme und Durchbeförderung von Personen (Rückübernahmeabkommen) vom 21. April 2010’, *Bundesgesetzblatt*, Jahrgang 2010 Part II, No. 9, at 260-4. Kosovo also signed agreements on the return of refugees with Austria, France, Switzerland, Belgium and Norway.

The problem, which is conveniently overlooked, is the fact that whilst there may now be some semblance of stability in Kosovo, Roma refugees, like those living in camps inside Kosovo and in the neighbouring countries, have no place to return to and therefore at present not much of a future there.

Roma returnees, like all Roma in Kosovo, usually live in extreme poverty on the margins of mainstream Kosovo society, often in shacks or abandoned buildings without running water, sanitation or heating; some of their make-shift settlements are next to rubbish dumps. A number of repatriated Roma even moved into the lead-poisoned camps of Osterode and Česmin Lug in northern Mitrovica. Roma returnees are victims of racial discrimination and attacks, and because their physical appearance sets them apart from ethnic Albanians, they are often afraid to leave their settlements, especially on their own or after dark. Chances of regular employment are minimal; Kosovo's official unemployment rate lies at over 45 per cent, amongst the Roma populations it is close to 100 per cent. Therefore, many Roma, including children, have to collect rubbish in order to survive. As a result of missing papers, many Roma have problems accessing medical care and social services. Repatriation to Kosovo is particularly hard on children who have grown up in Germany, as many of them speak neither Serbian nor Albanian. This makes it very difficult for them to find new friends. Often they are unable to attend school because their parents cannot afford the school fees, books or proper clothing; and those children who go to school are frequently bullied by children from the majority ethnic communities. The results are loneliness, bewilderment, depression and sometimes even suicide. A 're-integration' of thousands of forcibly returned Roma is basically impossible. Most of those repatriated, therefore, try to return to Germany as quickly as they can, meaning as quickly as they find the money to pay for a (usually forged) visa or a smuggling ring to bring them back illegally, increasing the risk of further exploitation and victimisation.

The *Gesellschaft für bedrohte Völker*, which had already strongly challenged earlier forced returns of Kosovo Roma, called the German-Kosovar repatriation agreement a 'merciless policy' which was 'oriented on the widespread antiziganism in the German and European population' and constituted 'a deliberate blow against this group of victims of the Holocaust'.<sup>38</sup> Even before the signing of the agreement, specifically one day after the 65th anniversary of the liberation of Auschwitz, the *Gesellschaft für bedrohte Völker* had compared the fate of 10,000 Kosovo Roma whose stay in Germany was only 'tolerated' with the fate of the Roma and Sinti in Auschwitz's 'Gypsy Family Camp'.<sup>39</sup>

'Now, every week children, women and men of those "tolerated" Kosovo Roma are deported, often under the cover of darkness, and all too often husbands are separated from their wives,

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<sup>38</sup> *Gesellschaft für bedrohte Völker*, 'The planning of forced deportations is a relapse into the worst time of the persecution of the "gypsies"', n.11, above.

<sup>39</sup> Rainer Schulze, '2 August 1944: The Liquidation of the Auschwitz *Zigeunerfamilienlager*', *The Holocaust in History and Memory*, vol. 4 (2010), at 147-59.

parents from their children, siblings from each other. Children, sick people and the elderly are deported, and deportations are cloaked as voluntary returns.<sup>40</sup>

In November 2011, Tilman Zülch declared in another press release that the German past puts the obligation upon Germany to end ‘the disastrous and unacceptable limbo’ in which the Kosovo Roma find themselves with regard to their right of residence in Germany and allow those who want to stay to do so.<sup>41</sup>

Many other national and international organisations also protested against these forced returns, raising serious concerns about Kosovo’s reintegration and absorption capacity as well as practical protection issues. Ban Ki-Moon, UN Secretary-General, noted in a report to the Security Council that the implementation of returns strategies by the municipalities in Kosovo, where they existed, were facing serious challenges which included,

‘lack of funding for returns activities, lack of political commitment and structural problems in local governance, as well as concerns regarding the viability of conditions for returns, namely security, access to public services, housing and property rights and socio-economic opportunities.’

He warned: ‘Continuing forced returns from host countries may negatively impact the ability of Kosovo authorities to support sustainable returns and may exacerbate existing tensions.’<sup>42</sup>

In a letter to the German Minister of the Interior, Thomas Hammarberg, the Council of Europe’s Commissioner of Human Rights, likewise voiced his concerns

‘regarding forced returns, especially of Roma, to Kosovo. [...] Kosovo is still trying to cope with the difficult task of rebuilding a war-torn society. Currently, the infrastructure and resources available are not adequate for the sustainable return and integration of refugees.’ Hammarberg reiterated his warning ‘that the current socio-political situation in Kosovo cannot justify the forced return of social groups at risk of persecution, including Roma.’

Hammarberg emphasised that, in Kosovo, Roma returnees

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<sup>40</sup> Gesellschaft für bedrohte Völker, ‘Die GfbV fordert Kontingentlösung für 10.000 unter uns lebende Roma-Flüchtlinge!’, press release, 28 January 2010. Available at: <http://www.gfbv.de/pressemit.php?id=2169&highlight=Roma|Kosovo|2010>. Last accessed 27 February 2013.

<sup>41</sup> Gesellschaft für bedrohte Völker, ‘Gesellschaft für bedrohte Völker fordert Kontingentlösung für 30.000 Roma-Flüchtlinge aus dem Kosovo’, press release, 17 November 2011. Available at: <http://www.gfbv.de/pressemit.php?id=2469&stayInsideTree=1>. Last accessed 27 February 2013.

<sup>42</sup> United Nations Security Council, S/2010/169, ‘Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo’, 6 April 2010, at 6. Available at: <http://www.unmikonline.org/SGReports/S-2010-169.pdf>. Last accessed 27 February 2013.

‘regularly experience discrimination and marginalisation and fear for their safety. I have met several returned children who have no prospect of building a new life there. They have problems at school due to language barriers. Many are unregistered and have no civil status documents’.

He, therefore, appealed to the German government

‘to look into the above serious humanitarian issue and adopt all necessary measures in order to prevent any further forced returns, particularly of Roma people, to Kosovo, as long as the situation on the ground provides reason to believe that these returns put the returnees’ lives and personal security at risk’.<sup>43</sup>

Human Rights Watch and Amnesty International each released a long and detailed report calling on all EU Member States and any other countries returning people to Kosovo to ‘suspend deportations of RAE to Kosovo until there are adequate reception conditions for safe and dignified returns’.<sup>44</sup>

German local and regional initiatives formed the national campaign network ‘Alle Bleiben!’ (All Stay!), which fights for the right of Kosovo Roma to remain in Germany.<sup>45</sup> There are also individual Germans who are helping Roma finding refuge from forced repatriation in churches and other safe houses, and support their campaigns for a right of permanent residence. Just one case of many is the Berishaj family who fled Kosovo in 1997 and settled in the small village of Dingelbe near Hildesheim in Lower Saxony. Their son, Elvis, joined the local handball team and became their top scorer. Elvis was faced with deportation to Kosovo when he turned 18 as he had no right of residence in Germany. The whole village came together to support Elvis and the Berishaj family. Elvis eventually got the papers that allowed him to stay – but to this day he seeks out shade on sunny days so that his skin does not get darker than it already is.<sup>46</sup>

However, the German authorities continue the practice of forced repatriation. The Bavarian State Ministry of the Interior confirmed in October 2012 that

‘[s]ince April 2009, based on an agreement with the Kosovar side, all members of the Roma community with the legal duty to leave, who had not committed any crimes, have been included in the repatriation process. [...] We do not see any need for further measures like a special regulation of residence rights for Roma. The fact that some of the Roma did not fulfill the (generous) conditions for a right to stay, does not mean that a stop to the deportation is justified’.

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<sup>43</sup> Letter from the Council of Europe Commissioner for Human Rights to Dr Thomas de Maizière, German Federal Minister of the Interior, 15 November 2010. Available at: <https://wcd.coe.int/ViewDoc.jsp?id=1716797>. Last accessed 27 February 2013.

<sup>44</sup> Human Rights Watch, ‘Rights Displaced: Forced Returns of Roma, Ashkali and Egyptians from Western Europe to Kosovo’ (New York, 2010), at 76; *See also*: Amnesty International, ‘Not Welcome Anywhere: Stop the Forced Return of Roma to Kosovo’ (London, 2010), at 58-60.

<sup>45</sup> *See*: <http://www.alle-bleiben.info>. Last accessed 27 February 2013.

<sup>46</sup> Antje Windmann, ‘Reise in die Vergangenheit’, *Der Spiegel*, No. 44/2010 (30 October 2010), at 52-6.

The letter concluded: ‘Ultimately, it is the responsibility of all western Balkan states to protect the minorities who have been living on their territory for many years and give them the required economic and social support.’<sup>47</sup>

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Only addressing the immediate ‘bread-and-butter’ human rights issues that the Roma face in Kosovo – as vital as this obviously is – is not nearly enough on its own: it is just as important to develop a comprehensive and inclusive historical memory or historical consciousness. This does not just mean an awareness of the age-old prejudices and discrimination suffered by Roma in Eastern Europe and elsewhere, but also a more specific appreciation of the history of the Roma communities in Kosovo in the past decades. At the moment, some of the immediate human rights issues are being addressed, even if hesitantly, painfully slowly, often with huge time delays and only following pressure and numerous campaigns. There is also at least some awareness in some quarters of past human rights failings – but the issue of the ‘forgotten’ or ignored memories of the Roma persists. However, both need to be addressed simultaneously in order to map out a sustainable future for the Roma communities in the region and for the region as a whole.

There is no human right to memory, although there is a strong case to be made that there should be.<sup>48</sup> Only recently, Anna Reading argued yet again that ‘cultural forgetting’ is an important reason why European Roma, the largest ethnic minority in Europe, continue to suffer extreme poverty and lack of employment opportunities and face discrimination in almost all fields, from housing to education and access to health: ‘European politics and culture rest on the amnesia of Roma people’s slavery in Europe between the 15th–19th centuries, and the genocide committed against them in the 20th century.’ The Roma have come to be regarded as ‘a people without a past’, living solely in the present.<sup>49</sup>

The same can be said for Kosovo: Kosovo politics and culture on both sides of the Albanian/Serbian divide rest on a similar kind of amnesia of the fate and experiences of the Roma in the turbulent history of this region in the twentieth century. Roma memories of the

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<sup>47</sup> Letter from Bayerisches Staatsministerium des Innern (Ministerialrat Dr. Sommer) to Jennifer Clayton-Chen, 23 October 2012 (my translation from the German). I am grateful to Paul Polansky for giving me access to his communication with the Bayerische Staatsministerium des Innern.

<sup>48</sup> See, for example: Anna Reading, ‘Identity, Memory and Cosmopolitanism: The Otherness of the Past and a Right to Memory’, *European Journal of Cultural Studies* 14:4 (2011), at 379-94; From a different perspective, see: Daniel Levy and Natan Sznaider, *Human Rights and Memory*, (University Park, PA: Pennsylvania State University Press, 2010).

<sup>49</sup> Anna Reading, ‘Generative Memory: Gender, Digital Media and Roma Memory of the Holocaust’. Keynote Address at the International Conference ‘Memories of Conflict – Conflicts of Memory’, School of Advanced Study, University of London, 12-13 February 2013; See also: <http://www.kcl.ac.uk/artshums/depts/cmci/newsrecords/readingkeynote.aspx>. Last accessed 2 March 2013. For wider discussion, see: Anna Marie Reading, ‘The European Roma: An Unsettled Right to Memory’, in Philip Lee and Pradip N. Thomas (eds.), *Public Memory, Public Media and the Politics of Justice*, (Basingstoke, Palgrave Macmillan, 2012), at 121-40.

conflict are only handed down within the Roma communities. Amnesia outside the Roma communities means erasure from the collective memory and historical consciousness of the region. It is, therefore, vital that the specific Roma/Ashkali/Egyptian memory is unlocked and introduced into the general discourse of the recent past by collecting Roma testimony of the Kosovo conflict and including it in what Reading calls ‘the Global Memory Field’.<sup>50</sup>

I am currently undertaking an initial small project interviewing members of the Roma, Ashkali and Egyptian communities in Kosovo as well as some of those who fled to and still reside in Germany about their memories of the Kosovo War 1998-9.<sup>51</sup> The aim is to make the voices of Kosovo Roma heard. This is only a very small first step – many more will need to follow in order to address decades of human rights failings, break through the general amnesia and secure the Roma their rightful place in both the memory landscape and in the future of the region. The aim must be a pluralistic memory culture for Kosovo, and for this to come about all ethnic groups have to be prepared to allow a multi-directional memory structure.

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<sup>50</sup> Anna Reading, ‘Globalisation and Digital Memory: Global Memory’s Six Dynamics’, in Motti Neiger, Oren Meyers and Eyal Zandberg (eds), *On Media Memory: Collective Memory in a New Media Age*, Basingstoke: Palgrave Macmillan, 2011, pp. 241-52.

<sup>51</sup> I presented the first findings of this project in a paper given at the conference ‘Antiziganism – What’s in a word? The Uppsala International Conference on the Discrimination, Marginalization and Persecution of Roma’, held at the Hugo Valentin Centre, Uppsala University, Sweden, 23-25 October 2013. It is published as Rainer Schulze, ‘Silenced Voices: Roma, Kosovo, Memories of “Home”, and the Need for a New Discourse’, in Jan Selling, Markus End, Hristo Kyuchukov, Pia Laskar and Bill Templer (eds), *Antiziganism -- What's in a Word?*, Newcastle upon Tyne: Cambridge Scholars Publishing, 2015 (forthcoming), pp. 64-75. See also my paper ‘Memory and Representation of Anti-Roma Violence: The *Porrajmos* and the Kosovo Conflict’, given at the international conference ‘Narratives of Violence’, organised by the International Consortium for Research on Antisemitism and Racism (ICRAR), held at the Central European University, Budapest, Hungary, 16-18 June 2014 (publication forthcoming).