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Paper Presentation: "Roma EU Realities Today: The case of Romania and Bulgaria"

Karina Pogosyan
Master, Glendon School of Public and International Affairs
York University

This essay undertakes the question of longstanding and pervasive marginalization of the Roma populations in Europe. Now totalling between 7-10 million in Europe and often referred to as "Europe's most despised minority," Roma are unlike any other minority ethnic or religious group in Europe. No Roma state exists to take them in or to appeal on their behalf, and while other ethnic groups, such as, Jews, Bulgarian Turks and Georgian Russians are recognized to be minorities in Eastern Europe, the Roma are by far the most stigmatized and vilified group among them. By looking at Roma history, the development history of minority rights protection in Europe, as well as, two country case studies based in Romania and Bulgaria, this paper will provide a concise way to understand the complex and multidimensional nature of oppression faced by Roma and point out the extent to which recent efforts to help Roma have been met with success. An underlying purpose of this paper is to show why current policy practices for minority rights protection in Europe continue to be ineffective and to point out ways of countering these efforts with more viable solutions for the Roma plight. For example, the paper will show that while slightly more progress has been shown in the two country governments' most recent efforts to help the Roma, because these continue to be, once again, grounded in the old and faulty path of helping minorities, they are likely to fall short of the expectations to help Roma in a lasting way. A more reformed approach must be adopted, if Europeans are to ameliorate the current Roma destiny in Europe. In short, this paper revolves around the question: "Why are Roma the most hated and marginalized minority in Europe and what can be done about it?"

1.   Introduction

This essay undertakes the question of longstanding and pervasive marginalization of the Roma populations in Europe. Often referred to as "Europe's most despised minority" (Goldston 147), Roma are unlike any other minority ethnic or religious group in Europe. No Roma state exists to take them in or to appeal on their behalf (Barany 328), and while other ethnic groups, such as, Jews, Bulgarian Turks and Georgian Russians are recognized to be minorities in Eastern Europe, the Roma are by far the most stigmatized and vilified group among them (Ahmed et al 235, Goldston 158). By looking at Roma history, history of minority rights protection in Europe generally, as well as, two country case studies based in Romania and Bulgaria, this paper will provide a concise way to understand the complex and multidimensional nature of oppression faced by this minority group. It will also offer an observation as to why it is reasonable to anticipate that the current European efforts invoked to help Roma will likely fail to have a substantive or a lasting effect for them. It is hoped that by looking honestly and openly at the limitations of the methods of help, it will be easier to point out ways of countering these strategies with more viable and realistic solutions for the Roma plight. Broadly speaking then, this paper revolves around the question: "Why are Roma the most hated and marginalized minority in Europe and what can be done about it?"

To answer the above question, this paper is roughly divided into three parts. The first part spends time looking at Roma and their history in Europe. This section elucidates that Roma have been living in different countries in Europe for over seven centuries (Barany 324) and are quite heterogeneous as a group. "Roma are composed of multiple groups (e.g., Lovari, Kalderesh or Boyash), with different languages, religions, and cultures. The differences among these groups are often larger than between Roma and non-Roma" (Ahmed et al. 235, 236). The second section will examine the problematic absence of any minority definition in the present international and domestic legal documents addressing the protection of minority rights. As the section will show, this single circumstance has problematic consequences for instituting enforcement mechanisms of protection for Roma at the

national levels. Because of the collective failure to give specific definition of who or what group constitutes a minority, national governments are able to enjoy a considerable leeway with respect to specifying which groups of individuals fall under the positive protection provisions. This has direct consequences for the Roma, who are unlike any other ethnic minority group in Europe. "In the case of the Roma, we are dealing with an ethnogenesis of a different kind" (Achim 204). The third section looks at the case studies of Romania and Bulgaria with the objective of determining what policies have been introduced to help the Roma and to measure the extent to which they were or were not successful. These countries were selected for this purpose primarily because both constitute the latest country enlargements to the EU. This makes them interesting from the scholar's perspective to examine whether or not their accession has made any difference for their territories' most vulnerable and desperate populations. While the two countries have signed many of the European human rights documents and declarations, there has been very little change in the life, opportunities and treatment afforded to persons of Roma background. The third section is concluded with some observations and recommendations that have emerged from the literature, which suggest an alternative and a more promising means to help the Roma.

2.   Roma and the roots of their problems….

There has been a lot of literature published on the subject of Roma, especially in the last decade. The accession of Romania and Bulgaria into the European Union in 2007 officially made Roma the largest European minority there (Roma Realities Report 9, Boscoboinik 296, Schvey et al. 1161-1162), which technically means that "they are no longer an Eastern European peculiarity but a collective and general European concern" (Boscoboinik 296, Barany 338). Authors Schvey et al. point out that, astonishingly, numbering between 7 to 9 million and living in virtually every country from Spain to Romania, Roma collectively represent a population larger than the populations of Iceland, Luxemburg, Slovenia, Estonia, Malta, Liechtenstein, Cyprus, and Ireland combined (1161, 1162). However, although numbering such a substantial community across all Europe, another author observes that the Gypsies have never been a part of 'History with a capital H' (Achim 1), and their own history at this continent was rather tragic throughout. "No matter what region one considers, the majority population treated the Roma as inferiors and subjected them to cruel treatment" (Schvey et al. 1166). This can be largely explained by the traditions and a specific way of life that has always set Roma apart from the local populations in which they settled (Czech Helsinki Committee for Human Rights 2). For example, Jansen notes that early oppression of the Roma was grounded in irrational considerations such as ideas within settled and contained medieval societies that darker skinned foreigners, with different cultural and social traditions were somehow indicative of the signs of evil (170). Hence, Gypsies were superstitiously blamed for death, epidemics, diseases and poor harvests (170). Their wandering way of life was also regarded as immoral and generally equated with criminality (170). As a point of reference to the extent to which the Roma were hated and dehumanized from the beginning of their settlements in Europe, it is

worthy to note that in 1498 present day Germany, Gypsies were declared outlaws. Jansen notes also, that as a legal consequence of this, anyone who did them violence or injured them was not to be considered as having committed a crime or having done anything wrong (169). However, while their distinct look and traditions were the initial sources of their discrimination, after some time, these developed into stereotypes that encouraged characterization of all Roma indiscriminately as unworthy human beings. Without objective justification, people were en masse encouraged to treat Roma with special cruelty and lack of empathy.

> In Germany alone, between 1497 and 1774, about 150 anti-Gypsy edicts were promulgated by territorial sovereigns, town councils and other authorities valid in their own jurisdictions. These edicts forbade every person to allow Gypsies to travel in or through the country, to peddle, to give them safe conducts, escorts or passports, and declared all issued passports invalid. Gypsies, were they to be caught, could expect severe and cruel punishment, if not capital punishment. Therefore, from the beginning of the sixteenth century onwards, the Gypsies – though they had come to Europe as part of a South-North migration – were forced to keep wandering about in order to escape all kinds of measures of persecution against them. (169-170)

The above excerpt confirms, therefore, that while much of the discrimination and marginalization directed towards Roma stemmed from their differences, the societies of those days perpetuated and exacerbated those differences by prosecuting Roma, in part, forcing them to keep up their nomadic lifestyle and be less likely to accept the new identity akin to that of the locals. In this context, their own cultural identity and traditions served them as the only source of consolation and protection by way of helping each other in the community, causing Barany to observe that the Roma culture and resistance to assimilation are paradoxically both the curse and salvation of these people (326).

Today, Roma remain the most disadvantaged population in Europe according to all major indicators – education, opportunity, health, income, and employment (Boscoboinik 295). It is a reality that has prompted several authors, in the literature surveyed here, to refer to Roma as the most hated minority in Europe (Barany 338, Roma Realities Report 46, Goldston 146, BBC UK news story "Gypsies are 'Europe's most hated'). "People reveal their anti-Roma prejudice unhesitatingly, in the most casual conversations" (Goldston 147). Barany also notes that this severe dislike of the Roma is not narrowly contained to one European region in particular: "hatred of and discrimination against the Roma are pan-European phenomena, for public attitudes toward them in Germany and Sweden are hardly different from those in Slovakia and Bulgaria" (338). They are frequently subject to violent attacks, police mistreatment, and are often used as scapegoats for society's ills (Boscoboinik 295). A 2009 report on Roma, for example, revealed that four out of five Roma in Southeast Europe live below the poverty line that can be best described as medieval hygienic conditions in the Europe of the 21st century. Their settlements are often illegal and have no running water, electricity, sewage system, or public services (Roma Realities Report 175). To better understand why so many Roma continue to

live in this way to the present day, this paper follows Achim's observation that "the past explains the present and the present explains the past" (2). What follows is a brief account of Romani history in Europe up to the present day.

Roma originated in the north-west part of India from where they began their gradual migration westwards beginning in the 10th century AD (ERRC Report 8). They settled in many different regions all over present day Europe, however, one region in particular will always hold a special place in the history of Roma (ECCR Report 7). Schvey et al. report that among all the countries where Roma were maltreated, Romania ranks as the worst offender (1166). Beginning in the fourteenth century and until the middle of the 19th century, Roma were enslaved in Romania and, unfortunately, their status as slaves marked their destiny (Achim 1). Social emancipation did not follow the granting of their legal rights as free citizens in 1864 (Achim 1, ECCR Report 8) and in the 20th century, about 500, 000 Roma perished in the Romany Holocaust that has been described as no less brutal than the Jewish Holocaust (Czech Helsinki Committee for Human Rights 2). After the Great War, the Roma in Eastern Europe were subjected to assimilation efforts by the communist regimes that ignored ethnic difference in favor of creating a uniform class society. Roma citizens were discouraged from expressing or even acknowledging their identity (Goldston 148). The excerpt below captures well the widespread sentiment towards the Roma in the communist era:

> Motivated by subtle and not so subtle-racism, communist-era policies such
> as segregated education and the sterilization of Roma women were
> premised on the assumption that a backward and degenerate people had to
> be either forcefully dragged into the modern age or prevented from making
> the trip. (Goldston 148)

The end of the Second World War revealed two primary groups of Roma, sedentary and nomadic, and gave impetus to the emergence of subsequent government policies of forcible settlement of those members who continued to adhere to nomadic lifestyle (ECCR Report 9, Achim 191). Stevens observes that the majority of Roma resisted this assimilation plan, although a number did give up their gypsy identity in this period (444). Due to these earlier policies, several literature sources observe that nomadic lifestyle has virtually ceased to exist among the Roma today (Achim 191, Barany 324). Together with forced settlement, nationalization of the economy, the processes of industrialization, urbanization, and the collectivization of agriculture all had a transformative impact on the line of work taken up by the Roma during the communist time (Achim 190-191, 194). As a result of these changes, the majority were forced to abandon the occupations that had been characteristic of them for a long time (blacksmith, etc) and to find a place for themselves in the communist-type economy (Achim 194). However, these changes were not for the better. Due to their continued lack of education, the only jobs the Roma were able to fill were unskilled and poorly paid work. Referring to Romania, although this situation was characteristic of many communist states at the time, Achim observes that "At the end of the process of wide-ranging social and occupational transformation...the Gypsies found themselves on the lowest rung in

society" (194). Following the fall of the Soviet Union, the Roma marginalization in Eastern Europe has arguably worsened. "The Gypsies have occupied and continue to occupy almost en masse the lowest level in society" (Achim 6).

While "simple solutions to the Romani predicament will not be found" (Barany 342), the new Europe of the 21st century cannot afford to ignore the deplorable situation of its 10 million most marginalized inhabitants. The Roma Realities report, for example, highlighted that "putting the plight of Roma at the forefront of Europe's social inclusion agenda...is not only a moral obligation but also an economic necessity for the countries concerned" (9). In this way, Roma inclusion policies via education and employment training are envisioned as an investment that will have substantially positive returns. Without such policies, the report predicts that countries in Central and Southeastern Europe will continue to incur economic costs associated with the social exclusion of the Roma population and lose out on their productive contribution to the economy (193). These points make a strong case for the continued efforts on the part of national governments to help improve Roma conditions in society. After all, since all of the post-communist countries in Europe are struggling with their demographic growth, it makes sense that they do not leave out millions of people's skills and talents underutilized (193). The next part of the essay looks at some of the international provisions that are meant to have an encouraging effect on the state governments to look after their minority populations, but which are often misused or only formally implemented by the latter due to the absence of a minority definition and a chronic absence of enforcement mechanisms.

3.   Marginality and Minority – the problems of definition, enforcement. classification, and the state's juggling of responsibility

It is important to understand the history that shaped the development of minority rights in Europe in order to understand the present situation today (Gilbert, Religio-Nationalist Minorities 397). From the brief historical overview that follows, it will become evident that European legislators and powerful figures tend to use strategies for the protection of minorities that, while overflow with noble intention and voiced concern for the disenfranchised, in practice fail to make much difference either in averting conflict or in stopping the violation of minority rights elsewhere.

Intentions to safeguard minority rights were in place for a long time prior to the 20th century. However, only a certain limited number of groups, under specifically recognized criteria were afforded minority status and protection. For example, in the 17th century at the time of the treaty of Westphalia, only religious minorities were formally afforded protection. Thus, the Roma were never included in the early conception of the 'minority'. The treaty of Westphalia, signed in 1648, had the effect of limiting traditional power of the sovereign by reserving the right of intervention by another sovereign power in the event of serious minority rights violations on the former's territory (Fink 385). However, without effective implementation procedures and enforcement power, the treaty amounted to little more than formal guarantees (386).

The nineteenth century saw an expansion in the classification of minorities that recognized not only religious, but also political and cultural minorities (Gilbert, Religio-Nationalist Minorities 399). It was also a period that saw the development of the principle of nationality (400-401). However, while these gradual expansions in the scope of minority protections may seem to have stemmed out of the genuine concern for the disenfranchised, Gilbert identifies the more probable motivation behind these developments: "The problem with the guarantees by the Great Powers of kin-minorities was that concern for human rights and minority rights was perceived to be a tool of international relations, a mere excuse for aggrandizement" (401). Thus, broadening the categories of minorities that the sovereigns were now vowing to protect, allowed for a wider variety of pretexts to be invoked in one's justification of invading the neighbour's territory. Therefore, in the nineteenth century states were more likely to intervene due to a volatile combination of national interests, power and publicity (Fink 389). Fink notes that during this time: "Russia, for example, interfered repeatedly in Ottoman affairs on the pretext of protecting its fellow Orthodox and Slavs" (389). It is evident therefore, that during this period minority rights protection, although formally acknowledged in importance, was not advanced for its own sake alone. Rather, the concern for the minorities was used strategically to gain advantage over other sovereign states.

In the twentieth century, situation has somewhat changed once again, while retaining the same basic flawed approach to the protection of minorities. The period following WWI continued to stress the importance of minority rights, while the era following WWII established more broad human rights guarantees (Gilbert, Religio-Nationalist Minorities 397). However, while the League of Nations' process of minority rights protection amounted to little more than political negotiation rather than legal sanction (404), the human rights declarations following the WWII were too broad and vague in their language to ensure substantive minority rights guarantees. In addition, there continued to be lack of enforcement mechanisms in the post-war period when the region was literally split by the Iron Curtain between the east and west. In the end, both approaches, of earlier narrower and later broader minority rights, were inadequate in securing the rights of the most vulnerable populations in Europe, establishing a dismal record of minority protection in twentieth-century Europe (Fink 399).

Since the close of the twentieth century, there have been three international groups working actively to improve the minority protection in Eastern Europe. The first is the Council of Europe, which formulates legally binding rules on human and minority rights and supervises the judicial settlement of disputes though the European Court of Human Rights in Strasbourg. The second is Organization for the Security and Co-operation in Europe (OSCE). It guides the writing of constitutions and the development of administrative practices in Europe, and has also established a High Commissioner for Minorities as a tool for conflict prevention (Gilbert 390). The European Union is the third international group. Its Pact on Stability signed in 1995, sets the political ground for post-communist states aspiring for membership (Fink 400).

The conundrum that emerged from the literature is that while the concept of marginality is relatively easily defined, the concept establishing what constitutes a

minority is not. For the purpose of this paper, I am adopting Barany's definition of marginalization: "'Marginality' denotes a condition of separation or isolation from other groups, and collective exclusion from political, social, economic, and cultural goods and services. A marginal condition might result from a variety of sources: distinctive appearance, race, ethnic origin, immigration, culture, etc" (323). While this seems pretty straightforward and we may expect minority definition to be produced with equal ease, Geoff Gilbert observes that the inherent heterogeneity of minority groups with their many multi-faceted characteristics produce problems when attempts are made to capture them in a definition. This lack of clarity in the definition has significantly affected their protection because when the language is non-specific, the parties charged with their protection are better able to find ways to interpret minority rights provisions in their favour, so as to exclude their rights claims. Similarly, Packer argues that:

> ...in international law, the existence of human groups is problematic. Conceptually, international law struggles with the definitions of actors beyond the 'State'; indeed, the problem of defining actors has always troubled political theory in general and international relations in particular...[W]hile the catalogue and content of individual human rights has become relatively clear, the specificity of protections for groups, particularly minorities, has remained largely uncertain. (Packer 23)

Therefore, it may not surprise the reader to learn that "...defining the term 'minority' has been avoided whenever possible" (Gilbert 161 and Packer 24-27). Even such prominent international human rights documents, such as, the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992 UN Declaration) and the Framework Convention for the Protection of National Minorities 1995 contain no definition of what a minority group is (Gilbert, the Council of Europe 162). Additionally, while it may be marginally acceptable that formal declarations lack definitional provisions, the absence of specific definition in a legal instrument, such as the Framework Convention, raises fundamental questions about those to whom the Convention applies (Gilbert 162). After all, "one cannot accord rights to wholly nebulous concepts and some definition is necessary" (162). This position, notes Packer, is rooted in the logic that there is no offence without a law. Thus, subjects of the law must know how to behave both in terms of rights and duties so that legitimate expectations may be served and illegitimate behaviour sanctioned (Packer 26). "International law, though, has not laid down a conclusive definition of a minority" (Gilbert 163) causing others to wonder whether this absence of agreement on a definition in international law has been employed as a "tactical device" of states that wish to avoid consideration of substantive rights (Packer 26). By default then, in the absence of a definition in international law, Packer correctly concludes that one is bound to rely to a significant degree upon these same states for dangerous unilateral interpretations (27).

Despite this seeming inability to define a minority, there have been very clear attempts at doing so. In his other article, Gilbert argues that it is necessary to find a way to recognize that the central elements of minority rights, such as, the right to exist and to preserve group identity, should reflect the fact that these are the rights and needs of an entity, the minority, which are greater than the sum of its members (Religio-Nationalist Minorities 393). However, contrary to this, classification of minorities in the twentieth century has been based in reference to national, ethnic, religious, linguistic or cultural minorities (The Council of Europe 168). But, this classification appears to be irrelevant:

> Minorities often straddle these classes and need guarantees about linguistic rights, religious freedom, and the protection of their culture. To categorize them adds nothing to the fact that they are a minority and that minority rights should attach in general. The adjectives go to the areas of protection and guarantees, rather than to the definition of those accorded that protection and those guarantees. (169)

In this way, the cart has been put before the horse in stipulating rights prior to succeeding in defining the subject of these rights (Packer 50). Thus, simple non-discrimination based on the above listed grounds does not guarantee minority rights protection in practicality (Gilbert 173). Gilbert uses the European Framework Convention for the Protection of National Minorities 1995 as an example. It is a document that sets out a series of rights for national minorities focusing on their linguistic, religious and cultural identity and which has country signatories that are meant to abide by these principles and progressively implement them within their domestic systems (Gilbert, Religio-Nationalist Minorities 389-390). However, since this convention does not establish a supranational enforcement mechanism (174), the effectiveness of this document is left to domestic legislation and government practice (188). Moreover, the Framework Convention is made more problematic by the vague language of the minority groups to which it is supposed to apply. Its Article 1.(1) affirms that: "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity" (Framework Convention). Gilbert observes that the Roma position is again left in doubt by this definition because while they constitute an ethnic group living on the territory of member states of the Council of Europe, their itinerant status may cast doubt on their coverage under the above provision. Additionally, if being a national group is a precondition to qualify for protection, some states may treat Roma as a separate nationality (Gilbert Religio-Nationalist Minorities 176). It has also been pointed out by Achim that the concept of national minority may not be suitable for the Roma. In the absence of unifying elements shared by modern nations, such as, community of language, culture, historical tradition, economic interests, and territory, he suggests that they would be better qualified as a 'transnational minority' or a 'European minority'. "The Roma would thus constitute a transnational, non-territorial, European minority" (Achim 204). Unfortunately, to

date, there is no such international minority rights provision specifically targeting the Roma.

What the reader can plainly see, therefore, is that the history of minority rights protection is both long and only partially effective. The main vices that seem to plague it are the lack of specific minority definitions and implementation mechanisms. Ultimately, where there is no political will of the majority, the rights of the disenfranchised Roma minority will remain overlooked. The third and final part of this essay turns to the case studies of Romania and Bulgaria post their accession to the EU with the objective to see whether their European membership has prompted the two countries to develop more robust and systematic inclusion policies for their Roma populations.

4.   Roma Realities in Romania and Bulgaria – the past and the present

Romania and Bulgaria are two post-communist countries that in 2007 together were granted European Union membership. Both countries have substantial Roma populations and their accession to the European Union, in effect, officially made Roma the largest minority population there (Boscoboinik 296). The situation pre-accession for the Roma in both countries was rather disastrous and both countries were required to make concrete steps, in the years leading up to the EU membership, in order to better the situation of their Roma populations as stipulated by the Copenhagen criteria.

4.1   Romania

Romania is a country where anti-Roma sentiment has remained high since Roma first appeared on their territory in the Middle Ages. A 2001 European Roma Rights Center Report stressed that a climate of impunity surrounds anti-Roma actions in Romania and that the anti-Roma sentiment remains high with even high-ranking government officials openly expressing their dislike of Roma (10). The report provides the following data that eliminate any doubt about the lack of popular support for the Roma cause in the country:

> Distrust and dislike of Roma pervade all layers of state and society in Romania. A recent survey conducted by the *Center for the Research of Interethnic Relations* in Cluj-Napoca suggests that 38.8% of the Romanian respondents and 40.7% of ethnic Hungarian respondents, if given the choice, would not allow Roma to live in Romania. Moreover, a poll published by the news agency *Agence France-Presse* suggests that three out of four Romanians fear Roma and would not tolerate Roma as neighbors. One recent study revealed that 84% of Romanians expressed aversion toward Roma. (ERRC Report 11)

The report then proceeds to outline various areas in society where Roma are disproportionately marginalized. These include: denial of justice, violent on-going abuses against Roma, lack of political rights, child homelessness and institutionalization in squalid conditions, school segregation, lack of adequate health care and employment opportunities, just to name a few. Yet, with Romania's aspirations for EU membership at the time, the ECCR authors noted some steps taken on the country's part to bring itself closer to the European human rights standards. For example, the government of Romania published the "Strategy of the Government of Romania for Improving the Condition of the Roma" in 2001. While this document is described as "ambitious" and even "comprehensive" by the ERRC (72), for including community development and administration, housing, social security and health care on the list of targets for its plans of action in the years 2001-2010, this NGO organization also notes the lack of details contained within these plans (73). "No mechanism is specified in the Romanian Government Strategy. It seems probable that, for the time being at least, this and similar proposals of the Government Strategy are likely to remain little more than "aims". The commitment to finance "multi- cultural research" is similarly so vague as to be meaningless..." (73). The authors criticize that much of the stated "action" is actually "elaborating", "conceiving" or "planning" which does not foresee any actual implementation of nice paper ideas into reality (74). Their other criticism concerns the lack of mention of where the fund resources for all the action targets that the Government Strategy seems to endorse and plan for will come from (74). All in all, they conclude that it is just another nice-looking plan on paper with no accompanying real-life changes for the Roma.

In addition to the above the Romanian government has become a signatory to a number of documents: these include the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the Integration Covenant on Economic, Social, and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on Human Rights and its 11 additional protocols, and the Framework Convention for the Protection of National Minorities (Stevens 447). However, all these again amount to nice formal declarations on paper. In the context of removing educational barriers for the Roma, Schvey et al. also note that the Romanian government has taken only limited steps to remedy their plight and even these were often underfunded or half-heartedly implemented with the eye towards appeasing EU officials or foreign donors (1166). "Throughout the Romanian education system, Roma children are second, if not third-class citizens" (1164). Thus, although the Romanian law guarantees the right to education, in practice it is frequently inaccessible to the Roma children (ERRC Report 60).

4.2   Bulgaria

In the case of Bulgaria, the situation with respect to Roma is very similar to that in Romania. For example, in 1999, the Special Rapporteur on *Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance* observed that police violence targeting Roma occurs in almost all countries of Central and Eastern

Europe with occasional cases in Western Europe as well. However, he noted that the police abuse is most pervasive in Bulgaria, Romania, Slovakia, Greece, Macedonia, Hungary, Ukraine and the Federal Republic of Yugoslavia (Stevens 446). Low unemployment is similarly pervasive for Roma throughout the region. Besides the general lack of qualification and employment, Roma face additional barriers to find work that stem from deep-rooted societal stereotypes held by employers that they are unreliable, unclean, dishonest, and that they steal (Czech Helsinki Committee for Human Rights 15). Thus, government sources estimate that the unemployment for Roma in Bulgaria alone is between 80 to 90 per cent, with many other countries in the region showing the same percentages (15). The housing situation is yet another area where Roma live in inhuman conditions in Bulgaria. There, admittedly 90% of Roma still live in segregated neighbourhoods (Roma Realities Report 112). Toni Tashev, a Roma human rights activist in Bulgaria since 1995 and a Bulgarian facilitator of the Roma Education Fund, giving an interview to the Roma Realities 2009 report, explained that the causes of this present housing situation of Roma stem from the insensitive communist regime policies in the country dating back to the 1950s. At that time state lands outside of the cities were specifically allocated for the Roma. With no access to infrastructure and inadequate living conditions, schools were built in the area specifically to accommodate Roma children. The overall plan, according to Tashev, was to create poorly educated labour force to be able to work at the lowest levels of industry (Roma Realities Report 112). In addition, without any infrastructural development of Roma neighbourhoods, there is frequently no access to quality public service like water or electricity, and no collection of garbage. "The illegality of settlements and houses is a good excuse for the local administration not to include the neighbourhoods in urban planning (112). These deplorable living conditions, in turn, have a direct impact on Roma education. Without electricity and other essential amenities for a stimulating learning environment, children are unable to properly concentrate on doing their homework (115). Schvey et al. also note that a lack of education is both a result and a cause of Roma poverty (1163). Thus, in many ways to the present day, Roma in Bulgaria, continue to be denied distinctive ethnic group status and are legally treated as outcasts (Barany 336).

However, not everything is without change in Romania and Bulgaria. In February 2005, heads of governments from Bulgaria and Romania, as well as, Croatia, the Czech Republic, Hungary, Macedonia, Montenegro, Serbia and Slovakia launched the Decade of Roma Inclusion 2005-2015 (DecadeWatch Report 13). By signing up for this initiative, all countries were required to draft their Decade Action Plans in the priority areas of education, employment, health and housing and create institutional arrangements for implementing these Decade commitments (13). A Decade Watch Report from 2007 assessed the various progresses of different countries and determined that among the participating countries, some saw more significant progress than others (16). Countries are evaluated based on government action, not the changed situation for Roma on the ground. This is due to the dearth of information available for Roma and, thus, this report only evaluates countries based on their input and participation in this programme (15). The Decade evaluation score ranges from 0 to 4 (see diagram below) and in the 2007 Decade Watch Update, it was revealed that overall country progress fell between the scores of 1 and 2.5.

Although, this may seem like not a very substantial progress, the report rightly notes that "Compared to 2005-2006, sporadic measures and initial steps have increasingly made way for more systematic approaches across most countries" (21).

SCORE SUMMARY DEFINITIONS

0 - No action by the government.
1 - Sporadic measures, initial steps taken, but not regular and systematic.
2 - Regular measures. Not systematic, nor amounting to a programmatic approach.
3 - Government program. Advanced action, but not integrated policy.
4 - Integrated policy. Setting the standard for government action and ownership.

(DecadeWatch Report 20).

Table 1: Comparative Performance

RANK	COUNTRY	2007 SCORE	DIFFERENCE TO 2005/2006
1	Hungary	2.42	0.13
2	Czech Republic	2.16	0.40
3	Macedonia	2.08	0.71
4	**Bulgaria**	**1.96**	**0.12**
5	Slovakia	1.87	0.05
6	**Romania**	**1.84**	**0.11**
7	Croatia	1.83	0.13
8	Serbia	1.45	0.20
9	Montenegro	1.38	0.75

Note: Scores presented in this table are averaged across all indicators.
Scores vary from 0 (lowest) to 4 (highest).

(DecadeWatch Report 19).

For Bulgaria, a major achievement was recorded in the area of securing funds for Roma integration activities in the areas of education and employment for the 2007-2013. However, activities for other Decade priorities, such as access to healthcare and housing, remain underfunded and a systematic approach to these has not been achieved (24). The DecadeWatch has also established that while Bulgaria adopted plans for education (The Plan of Action of the Center for Educational Integration of Children and Pupils from Ethnic Minorities at the Ministry of Education and Science) and another plan for the improvement of living conditions for Roma (National Program for Improving Living Conditions of Roma), they remain unoperationized due to lack of short-term work plans and no targets or indicators to measure success (24). The report notes that approximately seven hundred teachers have been trained to work with children from different ethnic backgrounds, and

funding for reconstruction has been provided to schools integrating Romani children (24). In the labour sphere, it has been reported that 22, 000 Roma participated in programs aiming to enhance their competitiveness in the labour market by providing professional qualifications, professional orientation and the motivation to actively search for jobs. Thanks to the government Employment Agency's four organized job fairs for Roma, 338 out of 900 were reported to have been subsequently employed. Although this information provides promise for the continued use of job fairs to assist Roma employment, it has been reported that the number of these job fairs has decreased from ten in 2006 to four in 2007 (25). An area that has not witnessed any progress is healthcare. Obstacles to accessing healthcare, such as lack of insurance continue to persist. Although the government introduced two regulations in 2007 providing hospital care for persons with no income and obstetrical care for women with no health insurance, there measures are limited in scope. Complex bureaucratic procedure also impacts on the usability and access to these programs for Roma (25). In the area of housing, the government of Bulgaria has introduced an action plan for 2007-2008 called the National Program for Improving the Living Conditions of Roma in the Republic of Bulgaria 2005–2015. Although seven small municipalities were selected for the purpose of constructing housing for Roma, insufficient funding for this program has stalled the progress in implementing this government action (25).

For Romania, DecadeWatch discovered that in 2007 it, too, prioritized some policy areas for the Roma over the others. For example, integration policies in education and healthcare were advanced over housing and employment issues. In addition, it was noted that the government failed to react to a rise in forced evictions of Roma, deepening the social exclusion for many. Moreover, the funding of Decade initiatives remained problematic, as the Decade Action Plan had not been adopted and, consequently, did not receive any budgetary allocations (37). The report notes that affirmative action for Roma in the areas of secondary and higher education continues to be the strength of education system in Romania. The 2007 saw the government strengthening the legal framework for the prevention and elimination of segregated school of Roma by enacting the Ministry of Education and Research Order 1540/2007 (37). The Order elaborated on the methodology for school desegregation and set specific tasks for school inspectorates and administrations to prevent Roma segregation. Although these are all very commendable government actions, in practical terms they have not amounted to much. "Not much progress has been made by the government in scaling up positive practices which had been developed in previous years, such as the placement of school mediators. The number of qualified Romani school mediators remains very low with regard to the needs of the education system" (37). In the sphere of employment, only sporadic measures such as job fairs for Roma continued to be implemented. There has not been a directed effort to develop a coherent policy for integrating Roma into the labour market. The Ministry of Health was the only one out of all the ministries that showed active involvement in the Roma inclusion activities and the only one with allocated funds from its budget for Roma related projects (38). However, it would be beneficial to see that the ministry does more than just involve the community health mediators, but engages the medical profession itself to be more open and tolerant towards their Roma

patients. With respect to housing, an increased number of forced evictions strengthened ghettoization of Roma in some parts of the country (38). At the local level, the lack of government funding continues to prevent building of social housing or the rehabilitation of Roma settlements (38). There is, however, good news in that starting in 2008, the building of new social housing is expected to begin with funding from the EU Structural Funds (38-39). Discrimination against Roma remains widespread and it would be beneficial for the Romanian National Council for Combating Discrimination (NCCD) to start playing its actual role in fighting its society's aversion to Roma (39).

From the above overview of the programs and their limited implementation on the parts of both governments clearly indicates a lack of effort to effectuate substantial change for Roma. Some of the policies that have appeared can be better likened to political theatre than a genuine concern for the Roma people and their deplorable existence. The draft paper by Jacqueline Gehring observes the trend in European programs to help Roma that have a hue of formal, rather than substantive, equality and which have already been observed above. She bases this argument on two premises: 1) the overreliance of the European Roma rights movement on the legalistic approach to acquire rights; and 2) the popularity of quick fix, short-term programs to assist Roma. For example, through the lobby efforts of powerful and elite actors in Brussels, such as the Migration Policy Group, anti-discrimination rights became guaranteed under the European law (4). However, despite this seemingly positive development, Gehring questions the reason for the choice made to pursue a discrimination-model remedy to inequality at the European level (6). In fact, she suspects that when European institutions adopted racial anti-discrimination model – they were picking something that required *less* of state governments than substantive equality would otherwise require (6 emphasis added). In addition to the somewhat problematic choice of approach to institute lasting change, the author also notes the limited active support for the Roma that has been shown by some European institutions. She argues that measures, such as that, originate in the perception of the Roma as a problem to be solved in some way and are less about equality or welfare and more about preventing further "problems" (6).

> The accession of the Eastern European states with the largest populations of Roma in the last five years made this existing, but somewhat "managed" problem of the Roma, immediately pressing. Would the Roma, the most marginalized people in the new accession states, flood into the West (where, it went unspoken, they would not be welcomed)? What could be done to improve their situation in the East to prevent their mass migration to the West (that would not require too much money or effort)? (6-7)

Indeed, substantive equality requires more than just band-aide solutions of temporary programs. What rights-based litigation and sporadic state initiatives seem to have in common is the benefit of appearing to be doing something for the Roma, without actually committing themselves to bringing practical change. Gehring writes that although at the moment there are enough factors to suggest to some observers that successful tidal shift will occur, these are illusive:

I have written elsewhere of similar developments in anti-discrimination
rights for other racial and ethnic minorities with significantly more optimism
although they face some similar challenges. That is because in some Western
European nations there is a public discourse on race and ethnicity and a
burgeoning civil rights movement that may help strengthen anti-
discrimination institutions and actively challenge the attitudes of
discriminators. The situation for Roma seems to be a complete exception
from this development, even in those Western states, such as France or Spain
where societies are grappling with increasing diversity. The Roma stand
apart as a group that does not even receive consideration in those
conversations, conversations that do not even occur in the East. (13)

If a lasting change will come, it will be through a response to the Roma that will
require large amounts of money and an effort at a substantial social change, not
simply a focus on legal rights and justice. This is because the latter is significantly
less costly and has much less direct impact (15). Instead of implementing legal
victories of Roma, governments busy themselves spreading very limited funds across
small scale projects to support Roma for short periods of time (15-16). What Gehring
stresses, thus, is that these alone will never alter the perception of the majority of
society that the Roma are lazy, dishonest or drug addicted (11). There must be a
sustained and substantive political effort for the project of Roma in all of Europe if
we are to change their current plight.

The extent to which progress has been achieved leaves observers looking to
see more substantive improvement to take place so that actual change is effectuated
for Roma. Much still remains to be done in both countries, as the largest minority in
Europe struggles to survive against all odds. As positive as the EU accession
preparation process was for Romania and Bulgaria in bringing their infrastructures
to some sort of acceptable EU standard, a lot of work remains to be done with
respect to minority treatment within both nations and broader Europe as a whole.
Unless the policies instituted become well funded and implemented on the regular
basis, with regular progress reports – there is a strong likelihood that very little
practical change in the day-to-day life will accrue for the Roma. In this case, there is
a danger that the newly admitted members of the EU will follow in the historical
past of that continent's tradition in minority rights protection, where declarations
and symbolic documents are ceremoniously signed, but little gets done. While many
changes in society can stem from legislation and government programs, much of it
still has to come from the psychological transformation in the majority members of
the Romanian and Bulgarian societies. As Valeriu Nicolae, the Senior Advocacy
Officer for Roma Initiatives at the Open Society Institute in Romania observes:

It is significant that there is still no record of any president or prime minister
who has visited a Roma ghetto, and there are no public debates between
Roma and high-level politicians. Such initiatives, which are fundamental for
creating media trends that could lead to a change of mainstream attitudes
about the Roma, are ignored by the governments. (Roma Realities Report 46)

This psychological transformation is the responsibility of governments and politicians, because they hold a unique power to use policies, programs, influence, leadership and high visibility in society to alter mainstream public opinions and stereotypes over time. This should not be any different with respect to society's perception and regard for their Roma population. Additionally, the development of a clear minority definition in international law would have a big role to play in setting the tone for helping Roma. Once we establish that the Roma are human beings, with dignity just like the rest of us, the Romanian and Bulgarian societies will arguably become more accepting of the administrative policies of affirmative action to bring Roma on par with the rest of society.

This paper examined the issue of Roma marginalization and looked at a broad range of issues concerning their seemingly unchanging situation within Europe. While solutions will not become readily available for the population that has endured overt discrimination and subordination for centuries, it is important to continue to work with governments at the national level and with organizations at the international level that will help raise awareness about their plight. Policy implementation was identified as a key factor contributing to whether or not a given policy will be effective in ensuring meaningful changes result in the forum of Roma empowerment. Until this happens, the European Union will continue to be at risk for volatile uprisings and unrest, unable to call itself a just and equitable society it so much aspires to be. More importantly, it will be falling just short of the mark of calling itself a true democracy.

5.   Works Cited

Achim, Viorel. The Roma in Romanian History. Central European University Rt, 2004.

Ahmed, Patricia, Cynthia Feliciano, and Emigh Rebecca Jean. "Internal and External
Ethnic
   Assessments in Eastern Europe." Social Forces 86.1 (2007): 231-256.

Barany, Zoltan D. "Living on the Edge – the East European Roma in the
Postcommunist
   Politics and Societies." Slavic Review 53.2 (1994): 321-344.

Boscoboinik,   Andrea.   "Becoming   Rom: Ethnic   Development   among   Roma
Communities
   in Bulgaria and Macedonia." Ethnic identity: problems and prospects for the
twenty-
   first century. AltaMira Press, 2006. 295-310

Czech Helsinki Committee for Human Rights. "FMO Thematic Guide: The Roma." 1-17.

DecadeWatch "Roma Activists Assess the Progress of the Decade of Roma Inclusion
2007
   Update." 2008.

Editorial Team European Roma Rights Center Country Reports Series. "Report: Roma
   Rights in Romania." 10 (2001): 6-81. <www.ceeol.com>.

Fink, Carole. "Minority Rights as an International Question." Contemporary European
   History 9.3 (2000): 385-400.

"Framework Convention for the Protection of National Minorities." CETS No.: 157.

 http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=157&CL=ENG
 >.

Gehring, Jacqueline S. "A Civil Rights Movement for Europe: the Importance of
European Spaces
   in the Construction, Empowerment and Achievements of the Roma Rights
Movement."
   Conference Paper. Allegheny College.

Gilbert, Geoff. "Religio-Nationalist Minorities and the Development of Minority Rights
   Law." Review of International Studies 25.3 (1999): 389-410.

Gilbert, Geoff. "The Council of Europe and Minority Rights." Human Rights Quarterly
   18.1 (1996): 160-189.

Goldston, James A. "Roma Rights, Roma Wrongs." <u>Foreign Affairs</u> 81.2 (2002): 146-
162.

"Gypsies are 'Europe's most hated'." BBC News. 26 Apr. 2006
<<u>http://news.bbc.co.uk/2/hi/uk_news/4486245.stm</u>>.

Jansen, Michael M. "Sinti and Roma: An Ethnic Minority in Germany." <u>The Protection
of Ethnic</u>
<u>And Linguistic Minorities in Europe</u> Institute of Human Rights: Finland, 1995. 23-
66.

Marktler, Tanja. "The Power of the Copenhagen Criteria." <u>CYELP</u> 2 (2006): 343-363.

Packer, John. "On the Definition of Minorities." <u>The Protection of Ethnic And Linguistic
Minorities in Europe</u> Institute of Human Rights: Finland, 1995. 23-66.

"Roma Realities Decade 2005-2015." 2009.

Schvey, Aram A., Martin S. Flaherty, and Tracy E. Higgins. "The Children Left
Behind: Roma Access to Education in Contemporary Romania." <u>Fordham
International</u>
<u>Law Journal</u> 29 (2005-2006): 1155-1245.

Stevens, Dallal. "The Migration of the Romanian Roma to the UK: A Contextual Study."
<u>European Journal of Migration and Law</u> 5 (2004): 439-461.