

Victoria Shmidt

Historicising the Criminalisation of Romani People

Pavel Baloun, “Metla našeho venkova!” Kriminalizace Romů od první republiky až po prvotní fázi protektorátu (1918–1941) [“The Scourge of our Countryside!” The Criminalisation of Roma from the First Republic to the First Years of the Protectorate (1918–1941)],
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The monograph by Pavel Baloun has already garnered considerable attention. Pavel Baloun has not only collected and interpreted a wide array of previously neglected sources, but also problematised the stubbornly entrenched approaches to the history of Romani people and criminalisation. The opening and closing chapters are focused on the problematisation of the historical continuities between the interwar period and the previous one and follow the policy regarding the criminalisation of Romani people. The author moves away from a linear narrative and organises his reconstruction through juxtaposing different practices of criminalisation introduced by the Czechoslovak authorities (chapters 2–4) and specific trajectories of criminalisation in different localities (chapters 5 and 6).

In her uncritically positive review of the book, Celia Donert, a historian of human rights, stresses the impact of Baloun’s research on the revision of liberal democracy as a producer of systematic discrimination.¹ Along with a generally positive evaluation, Roma activist and researcher Renata Berkyová² nevertheless points out that the author favours the archival sources of “dominant institutions” over the testimonies of Roma, which problematises his otherwise innovative historicisation. In my reading, the book organically fits into the recently growing stream of work that presents the global history of vagrancy as an effort to connect racialisation with criminalisation at different levels of security policy, aimed at “applying a colonial statute to a modern population”.³

It is not only the redefinition of poverty as a moral condition due to the increasing vagaries of capitalism, including the subjection of labour to the bourgeois productive system as a shared transatlantic culture,⁴ that links the past and the present of criminalising vagrancy. The entangled history of increasing surveillance over the rights

1 Celia Donert, Interwar Czechoslovakia’s ‘Gypsy question’. Ceureviewofbooks. October, 2023. <https://ceureviewofbooks.com/review/interwar-czechoslovakias-gypsy-question/>.

2 Renata Berkyová, “Pavel Baloun, ‘Metla našeho venkova!’ Kriminalizace Romů od první republiky až po prvotní fázi protektorátu (1918–1941)”, *Střed* 15, no. 1, (2023): 131–135, 134.

3 Julie Kimber, “Poor Laws: A Historiography of Vagrancy in Australia”, *History Compass* 11 (2013): 537–550, 543. On cases of criminalising vagrancy in other regions, see Karin Borevi, “Scandinavian Approaches to Begging as a Policy Problem and the Double Insider/Outsider Status of Marginalized Intra-EU Migrants”, *Journal of Social Policy* 52, no. 2 (2023): 276–293, and Lúcio Mauro Paz Barros, “The Selective Criminalization of Vagrancy or Non-work”, *Seven Editora*. July 10, 2023. <https://sevenpublicacoes.com.br/index.php/editora/article/view/1881>.

4 Kristin O’Brassill-Kulfan, *Vagrants and Vagabonds: Poverty and Mobility in the Early American Republic* (New York: New York University Press, 2019), 4.

to move and to stay, the two main modes of social mobility, have also made migrants political figures over time.⁵ However, the historicisation of Roma along these lines has still not become the primary mechanism for better understanding how the circulation of practices and ideas around the criminalisation of vagrancy have evolved. Such an interpretive framework dovetails with Baloun's efforts to "return *race* as a historically contextualised concept back to the production of the history of interwar Czechoslovakia, ... and to reflect on the place of the First Republic in the then global order and the relationship between Czechoslovakia and colonialism" (11). What, in the author's interpretation, works for such a transnational vision, and what limits it?

The global history of criminalising vagrancy aims to bring together surveillance and the practices of survival or emancipation of the social groups that were racialised and criminalised as vagrants. This intention serves not only the mission of historical justice, but also directly solves one of the most complicated methodological issues in historicising criminalisation, namely, the evaluation of the damage done by criminalisation. Such an evaluation process does so through recognising the discrepancy between concern (moral campaigns launched around vagrancy as a source of public insecurity) and concrete threat (the actual social and economic damage from vagrants).⁶ Baloun approaches a balance between concern and concrete threat by presenting diverse strategies and tactics of resistance from the side of those seen as "wandering Gypsies" (104–109, 127–133), as well as by tracing the local differences in communication between Roma and the authorities in different parts of Czechoslovakia (Chapter 5, "Regulating 'Gypsiness' in the Regions: Different Regimes of Anti-Gypsy Politics"). Baloun impressively narrates the consequences of criminalising those labelled "Gypsies", and convincingly develops historical continuity between the interwar persecution of Roma and their genocide in the Czech lands during World War Two. In this turn, it is possible to interpret his methodology of historicisation as "contextual constructivism", aimed at bringing together the beliefs of different actors as driving forces behind the process of criminalisation. Baloun meets the requirements of this method of historicising when he moves from a state-centric conceptualisation to following the "complex dynamics of cooperation and competition between different domestic governmental and civil society actors",⁷ while missing these requirements when excluding the role of contesting projects of nation-building. While Baloun's successes should be seen as the personal experience of the author's professionalisation, the failures are connotated by the vicissitudes of historicising the interwar period in recent and current Czech historiography – which the author mentions in the introduction and other parts but does not always apply in the analysis.

Mapping criminalisation leads Baloun to prioritise various actors in the process: police experts at different levels, a few figures affiliated with physical anthropology, and politicians who are for and against introducing legal regulations targeted at aggravating the criminalisation of "wandering Gypsies". The wider range of those who have attempted, like Baloun, to embrace a contextual constructivist view on Romani people and their mode of life (for instance, Franz Baermann Steiner, who documented the development of the "Gypsy school" in Užhorod),⁸ are relegated to the margins

5 Thomas Nail, *The Figure of the Migrant* (Stanford: Stanford University Press, 2015).

6 Erich Goode and Nachman Ben-Yehuda, "Moral Panics: Culture, Politics, and Social Construction", *Annual Review of Sociology* 20 (1994): 49–71.

7 Ely Aaronson and Gregory Shaffer, "Defining Crimes in a Global Age: Criminalization as a Transnational Legal Process", *Law & Social Inquiry* 46, no. 2 (2021), 455–486, 460.

8 Jeremy Adler and Richard Fardon, *Franz Baermann Steiner: A Stranger in the World* (New York and Oxford: Berghahn Books, 2021).

of Baloun's narration. Baloun's narrative choices are aligned with the mission to prove that the core of criminalising Romani people is underwritten by a specific liberal political order:

I tried to point out that the law of the First Republic "On Wandering Gypsies and Similar Vagrants" can be perceived as a ... characteristic manifestation of interwar liberalism ... Its operation was accompanied by a fundamental tension between universal liberal principles, which included equality before the law in particular, and the collective political subject (the nation) through which they were to be realized. (355)

For the Western reader, such a consistent deconstruction of the myth of the liberal political order as free from discrimination may seem like tilting at windmills. But as a researcher involved in historical scholarship on Central Europe and the Czech Republic in particular, I can understand Baloun's intention with this task as a fitting response to the pressure to engage in a historicisation that favours reproducing historically informed arguments for liberal nationalism. At the same time, one cannot help but recognise how this struggle with such a pervasive fantasy exhausts the author's interpretive potential. I wonder what would have changed if the author had placed not the liberal regime within the inevitable binary opposition of liberalism/authoritarianism, but rather posited the project of liberal nationalism as a competitor to other projects of Czech, Slovak, and Czechoslovak nationalism.

Part of the answer to this question lies in the tautological definition of racialisation: "As a dynamic and non-linear process, racialization represented the consequences – not necessarily the primary intention – of various practices of exclusion and assimilation aimed at those inhabitants who were labeled to as 'gypsies' in Czechoslovakia at the turn of the 1920s and 1930s of the twentieth century" (278). The author comes close to explaining what shaped the specific version of antigypsyism in Czechoslovakia based on an intraracial hierarchy, namely the complex adaptation of various approaches to racialisation. However, since the focus is not on a specific nation-building project but a political struggle, the interrelation between criminalisation and racialisation falls into a cascade of incomplete chains of arguments.

The author claims that the purpose of Chapter 7 ("Transformations of the 'Gypsy Question' in the Era of Political Changes: From Czechoslovakia in the 1930s to the Initial Phase of the Protectorate of Bohemia and Moravia") is to embed racialisation in wider international contexts, but this contextualisation remains limited by a focus on the corrupting influence of German experts. The fact that the German experts' affiliation with the authoritarian regime was not sufficient to establish the boundaries and subsequent critical reflections of the Czechoslovak experts represents one of the predominant motifs in this chapter. The author concludes that, together with the desire to separate the "political" from the "legal" in German approaches to police reform, Czechoslovak experts paved the way to racialisation (285). Notably, Baloun neglects the fact that the German and Austrian experts who developed arguments in favour of racialising Roma actively applied approaches developed by their colleagues in the United States to deal with migrants and indigenous populations.⁹ Consequently, the casting of vagrancy in the role of racialising Roma in particular, and legitimising the Czechoslovak colonial imaginary in general, is not unpacked. Is the criminalisation of vagrancy embedded in various fantasies regarding "historical"

⁹ Ursula Mindler, "Die Kriminalisierung und Verfolgung von Randgruppen in der ersten Hälfte des 20. Jahrhunderts am Beispiel der österreichischen 'Zigeuner'", in *Kriminologische Theorie und Praxis: Geistes- und naturwissenschaftliche Annäherungen an die Kriminalwissenschaft* (Wien: LIT Verlag, 2011), eds. Christian Bachhiesl and Sonja Bachhiesl, 59–79.

nations – those with a homogeneous community sharing a common destiny, linked to a particular territory and stable through time,¹⁰ which serve as a constellation of the various modes of opposing “Gypsies” to Czechoslovaks – a practice of fictive ethnicity well-known to historians of race in Britain and its colonies? And if these patterns are similar, how can the circulation of such patterns be explained?

By avoiding these questions, Baloun neglects the class structure and the labour system that shaped the difference between the centre and the periphery in the dynamic of criminalising Romani people. The exclusion of these driving forces is one among several other reasons why such a convincing narration about the historical continuities of criminalisation ends at the Third Republic and does not address the socialist period. Furthermore, it ignores the contemporary anti-Roma bias within the criminal justice system,¹¹ exhibiting including one of the most visible testimonies of long-term discrimination against Roma: the notorious case of Stanislav Tomáš, whose death was the result of police violence in 2021.¹² This rupture in narration questions the chosen theoretical concepts and the efficacy of their application.

Baloun aims to introduce sociological methods into historicisation. He makes an attempt to develop a theoretical framework by applying Giorgio Agamben’s approach and by understanding criminalisation through the moral panics launched by and launching the collective imagination of others, performed on various “states of exception”, including the concentration camp as one of the extreme performances. In the author’s view, such performances objectify Romani people as “bare lives”. Ironically, Baloun misses the scholarship targeted at connecting concentration camps with intractable dehumanisation, started, among others, by Hanna Arendt, who stated:

[T]he separation between humanitarianism and politics that we are experiencing today is the extreme phase of the separation of the rights of man from the rights of the citizen. ... humanitarian organizations can only grasp human life in the figure of bare or sacred life, and therefore, despite themselves, maintain a secret solidarity with the very powers they ought to fight.¹³

Baloun, who builds his argument on the citizen rights of Roma (resembling an unreflected reproduction of one of the core tropes of liberal nationalism), relegated this tasks on the margins of his historicisation.

Considering that this is the young author’s first book, based on his dissertation, it cannot be said that the book represents a missed chance to rethink the history of Roma criminalisation in Central Europe. Given the opportunities available to integrate this research into supranational historicisations of criminalisation, one can only hope that the author, or those who critically work through his research, will be able to develop this theme.

10 Kris Sealey, *Creolizing the Nation* (Evanston, IL: Northwestern University Press, 2020).

11 Petr Kupka, Václav Walach, and Vendula Divišová. “From Legal Definitions to Ethnic Identities: Representations of Organized Crime in Czech Policy Documents”, *Trends in Organized Crime* (2022), <https://doi.org/10.1007/s12117-022-09449-y>.

12 Alexandra Dubova and Michal Zalesak, *European Justice Denied: Roma in the Criminal Justice System of the Czech Republic* (Brussels: Roma Rights Centre, 2023).

13 Bar On Bat-Ami, *The Subject of Violence: Arendtean Exercises in Understanding* (Maryland: Rowman & Littlefield, 2002), 133.

Victoria Shmidt (Centre for the History of Science, University of Graz) brings together the issue of historical roots of segregation with the legacy of colonial and socialist policies in Central Eastern European countries. Since 2009 Victoria pays attention to historicising the politics around Romani people as a part of ongoing process of practicing epistemic justice regarding them. Among her publication on this issue are the monograph *“Historicizing Roma in Central Europe: Between Critical Whiteness and Epistemic Injustice”* (2020) in co-authoring with Nadya Jaworsky and several articles.
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