The campaign against the restless: criminal biology and the stigmatization of the Gypsies, 1890 –1960

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In a book much discussed at the end of the 19th century, the Italian psychologist Cesare Lombroso, regarded as the founder of criminal biology, mentioned an alleged superstition held by the Gypsies. If a Gypsy commits a murder, claimed Lombroso, he subjects himself to a special ritual of atonement: “The Gypsies believe that God will be merciful if they wear for a year the same shirt they had on when they committed the murder.”

This description may be found in the chapter entitled “The Religion of the Criminals” in Lombroso’s main work, which was destined to become a classic. The first edition of the German translation was published in 1887 under the title Der Verbrecher (Homo delinquens) in anthropologischer, ärztlicher und juristischer Beziehung (The Criminal [Homo delinquens] in Anthropological, Medical and Legal Relations). Lombroso had published the original Italian version eleven years earlier, in 1876. Using the Latin term homo delinquens he sought to introduce a new generic biological concept. The ‘born criminal,’ stated Lombroso, is a unique kind of person, an anthropological type who stands out biologically from the normal population. One recognizes this type by specific ‘signs of degeneration.’ He believed, for instance, that skull sclerosis or an asymmetrical head was more frequent amongst criminals than amongst other people. Thieves, he maintained, can be identified by a sloping forehead and large eye sockets, murderers by powerful lower jaws.

In his book Lombroso showed little interest in the Gypsies. He mentioned them five times in the five hundred pages of the first volume of his work; nowhere did he deal with them systematically. They were referred to alongside many other groups, which he used as evidence to prove his hypothesis that the ‘born criminal’ exists. Lombroso saw Gypsies as a criminal entity, but not necessarily as a race; his writings do not evince a
clear conception of the term ‘race.’ He concentrates on individual hereditary criminality and only occasionally mentions groups like the Gypsies. Nevertheless, his book can be viewed as the beginning of an explicitly biological criminalization of a minority. From then on, Gypsies in Germany belonged routinely to those groups targeted by the science of criminal biology. The theories arising from this focus were one of the prerequisites for the National Socialist genocide of the Sinti and Roma.

Considering the Gypsies as criminal was a widespread attitude at the end of the 19th century. Police and bureaucrats in the local administrations of the German Reich held this view. They spoke of a ‘Gypsy plague’ and expended considerable time and energy in expelling Gypsies and other groups traveling through their respective districts, or at least in having them accompanied by police officers. In pursuing this practice, they were adhering to a common assumption requiring no scientific findings.

Some criminologists prior to Lombroso assumed that crime was a part of the ‘Gypsy nature.’ In 1863 Richard Liebich described Gypsies as an unchangeable people of morally inferior thieves and frauds. Lombroso differed from his contemporaries in that he held biological factors responsible for the alleged criminal tendency. In his opinion, the Gypsies were descended from the Indian untouchables. The ancestors of the Gypsies, the pariahs, he claimed, had “the largest eye sockets of all races” and thus bore the characteristic typical of thieves. Elsewhere he characterized the Gypsies as “born criminals and villains.” He ascribed to them a disinclination for work typical of criminals: “The Gypsies certainly follow a trade, but they only work as much as is necessary in order not to die of hunger, and that is why they remain so poor.” In a passage on recidivistic offenders, Lombroso reported on a Gypsy family he knew who had been convicted 16 times for vagrancy. He claimed that they had repeatedly had themselves arrested in winter so as to receive bread and clothing.

**THE BIRTH OF AN IDEA**

The discussion of Lombroso’s theory exerted a formative influence on the origins of criminology in Germany. Besides the debate on the reform of criminal law, the argument over whether criminality was genetic or not was one of the reasons why criminology came to be established as an autonomous scientific area in Germany. In the 1890s many experts, such as Abraham Baer, Paul Näcke, Hans Kurella and Julius Koch, responded to Lombroso’s
propositions with their own books. Psychiatrists discussed Lombroso’s theories, as did jurists, anthropologists, prison doctors, psychologists and journalists.⁶

In fact, Lombroso found only a few followers who endorsed his ideas completely. But the belief in the born criminal spread nevertheless. Emil Krapelin, one of the most influential psychiatrists of his time, as well as others, was convinced that the born criminal existed, even if the signs of degeneration were not visible physically. After World War I the influence of criminal biology increased. Psychiatric research of the 1920s looked mainly into causes of crime which were regarded as inherited and less into those ascribable to the environment of the perpetrator.⁷

In 1923 criminal biology theory was put into practice in Bavaria when the Bavarian Ministry of Justice ordered a biological examination of prison inmates. Prison doctors were asked to distinguish between those capable of being reformed and those whose tendency toward crime was regarded as innate and hence unchangeable. This was done by a criminal biological analysis of individual physical and biographical data and by examining the family history of the prison inmate. Two years earlier, in 1921, the Bavarian government had introduced a graded penal system, separating habitual criminals from petty ones. Hence, the justice authorities hoped to increase the chances of rehabilitating a suitable portion of the prisoners. They believed that with the help of criminal biology they could scientifically identify prisoners who could be returned to society.⁸

A collection point was set up in a detention center at Straubing in Lower Bavaria where Bavarian prisons sent their criminal biology reports. Theodor Viernstein, a doctor who was appointed director, eventually came to be regarded as the eminent authority on practical criminal biology in the German Reich. Ernst Rüdin, a leading German eugenicist, had suggested to Viernstein that he investigate issues of genetics. The Bavarian collection point became a model for other German states. For instance, in 1930 Prussia introduced criminal biology examinations for prison inmates.⁹

**TARGETING THE ‘TRAVELING PEOPLE’**

The examination reports on the individual prisoners are informative as a historical source. They suggest that the history of the persecution of the Sinti and Roma needs to be placed in a larger framework. The Gypsies were regarded as only one component of a group generally viewed as suspicious and having a
restless way of life, characterized as ‘traveling people,’ ‘vagabonds’ or ‘tramps.’ In addition to ‘Gypsies,’ such groups as ‘vagrants,’ ‘persons roving around like Gypsies,’ ‘hobos’ and ‘beggars’ were also included in these categories, which personified the restless because they were ‘wanderers’ or were generally regarded as such. That begging and vagrancy were punishable offenses made collective criminalization easier. Under the label of criminal biology, doctors and jurists undertook a campaign against sections of the underclass. The examination reports of the criminal biology collection point in Berlin mirror the thrust of the direction taken: most of those examined were simple skilled or unskilled manual workers, and almost none were members of educated circles. The examinations were similar to those carried out in Bavaria and included anthropometrical measurements and an analysis of the biography and family history of the individual.

In compliance with instructions issued by the Bavarian Ministry of Justice in 1923, prison doctors had to ask examinees if they followed a traveling way of life or went begging. As director of the Bavarian criminal biology collection point, Theodor Viernstein applied the restless category regularly in his examination reports. A July 1931 report on prisoner W., characterized as a ‘Gypsy,’ who was serving a sentence for horse thieving and attempted murder, reads:

> Both offenses typically express the gypsy nature. As a Gypsy, W. has the unbound life form of his nomadic blood. The capacity for empathy with the conditions of social life... of our culture is thus low... Given the entire development of W.'s life, it is in the nature of things that the social prognosis is unfavorable.

Viernstein’s diagnoses of restlessness were not limited to this group, however; he also formulated similar judgments concerning prisoners not considered ‘Gypsies.’ In April 1928 he wrote of a prisoner sentenced on counts of begging and theft:

> Not only through his last, thoroughly restless journey throughout the whole of Germany has the subject documented a constant need for change, but also already through earlier similar wanderings at the age of sixteen he had displayed this need which appears to be very similar to the instability of a psychopath... Such a disposition should be viewed mainly as an expression of a crisis of dissatisfaction which at times overcomes certain psychopaths amongst criminals and determines their actions in such a way that they wander from place to place without being able to summon up the will for a settled form of existence and regular work.
Viernstein therefore wanted to see the prisoner placed under strict control: “In terms of racial biology, the viewpoint of safeguarding society should take priority.” In April 1928 Viernstein characterized a prisoner convicted of begging, vagrancy and theft as suffering from ‘dromomania,’ and noted: “Already as a child he had once, as his mother later told him, roamed around aimlessly in the woods without being aware of it, and he could not say why. So he became a tramp and sank into the criminality characteristic of this brotherhood.”

Criminal biologists also believed that crime and epilepsy were connected—Lombroso had already attempted to prove this assumption. Viernstein made the connection between epilepsy and restlessness in 1928: “In any event, it is an empirical fact that a considerable number of such epileptics are concealed amongst vagabonds and roamers, the people of the country roads.”

The affliction became visible, said Viernstein, in the unruliness they displayed when confronted by an official of the state. He explained this further in a report:

The assumption that we are dealing with epilepsy becomes even more convincing due to the fact that the subject is an immensely irritable, stubborn and obviously extremely independent person who, according to his own confession, behaves in a fundamentally fractious and contrary manner toward organs of the rural police authorities... His criminality, practiced for decades... appears to be a form of parasitical, uprooted existence typical of the traveling people and more annoying than dangerous. The social prognosis is, of course, extremely poor.

Viernstein recommended permanent incarceration in an institution.

SCIENCE AND THE FEAR OF CRIMINALITY

One can interpret criminal biology as an attempt to rationalize the anxiety manifested among sections of the bourgeoisie caused by some of the consequences of modernization and urbanization. Poverty, criminality and alcoholism demanded an explanation. Criminal biologists appeared to offer one. They swam with a tide that had its source in social Darwinism and was the confluence of many contemporary currents: eugenics, heredity and degeneration theories. Fear of the restless also mirrored the concern that even more of the old order might be lost than that which had already been destroyed in World War I.
Many contemporaries hoped to find answers to epochal questions in the biology of heredity. One group espousing this idea was the medical elite. In a report from December 1924, the members of the Bavarian chief medical committee expressed the conviction that the roots of crime were to be found in heredity. The more science deals in detail with heredity, says the report, the more clearly does its "powerful importance" emerge. Character and will are already established as basic characteristics at birth:

This innate nature is in turn only to a limited degree caused by the favorable or unfavorable living conditions in the mother’s womb; rather to a far greater extent it is acquired and may be traced back to the composition of the cell material out of whose union the individual originates.\(^{16}\)

Just how much the popularity of criminal biology was due to the widespread anxiety of particular social groups is revealed in definitions of the healthy and the sick. Criminal biologists regarded disrespect for state authority as a sign of sickness. Their examination categories included concepts such as ‘social discipline,’ ‘position in social order,’ ‘political attitudes’ and ‘religious values.’ The prisoner was also asked in the examination such questions as what newspaper he read. Thus, criminal biologists passed off social judgments as scientific findings.\(^{17}\)

Theodor Viernstein interwove the political, social and religious attitudes of prisoners expertly into his diagnoses. In May 1928 he wrote the following of a prison inmate: “He showed himself to be an unruly, uncivilized person who was mischievous, a rabble-rouser against religion and someone who expressed spiteful communist views.”\(^{18}\) Only discipline, principally military discipline, could alleviate this, claimed Viernstein. In January 1928 Viernstein reported on a prisoner whose offenses included vagrancy and begging: “From March 1914 till June 1919 there was a pause in his criminal activities, evidence that the subject was capable of keeping discipline in a soldier’s uniform and under a strict hand.”\(^{19}\)

**EFFECTS**

Criminal biology had an impact first and foremost on prison inmates. If a prison doctor assigned a prisoner to the ‘traveling people,’ on the basis of his examination report, the latter was threatened with more severe penal conditions than other prisoners who were convicted of the same offense. Diagnoses based on criminal biology could also influence the trial. The courts could refer
to the reports if they considered this necessary. In an annual report from October 1928, Viernstein asserted that the state prosecutor’s office had requested the reports compiled by the Bavarian collection point in 120 cases. In addition, the examinations provided a basis for many criminal biology studies. The Bavarian collection point also made their material available to researchers.

In contrast, during the period of the Second Reich and of the Weimar Republic criminal biology had no influence at first on the conduct of the police, local administrative bodies and the Länder interior authorities. Certainly, the race concept was used in individual documents dealing with ‘combating’ the Gypsy plague, for example, in the decree implementing the Bavarian Gypsy and work-shy legislation of 1926. In everyday practice, however, the ideas of eugenics and criminal biology scarcely played a role. Police and bureaucrats were oriented mainly toward a sociological concept of the ‘Gypsy.’ This understanding covered people who, as stated, “roamed around in the Gypsy way,” without reference to ethnic descent or hereditary line.20

PRECURSORS

In the long term, however, the consequences of criminal biology hypotheses were grave. Scientific works, both academic and popular, supported the prejudices in circulation and lent them the dignity of learned insight. Thus, they also undermined the basis of traditional policy toward Gypsies, which had lain in the assumption that one could change the Gypsies once their restless life was expunged from them by necessarily severe means. However, those who believed that the roots of Gypsy restlessness lay in their hereditary makeup had ultimately to dismiss an enforced settled form of existence as a goal. Elements of the biological image of the Gypsy filtered slowly into the scientific and public debate. The precondition for the transition from traditional to National Socialist Gypsy policy, introduced by the German criminal police in the late 1930s, was thus created.

Ideas developed by criminal biologists in the 1920s were adopted over a decade later by racial hygienist Robert Ritter, the leading Gypsy expert of the National Socialist regime. Besides registering all so-called Gypsies and ‘Gypsy half-castes,’ Ritter planned to record all those sections of the population that, in his opinion, tended toward criminality due to their hereditary makeup. In 1927 Theodor Viernstein had suggested to the scientific advisory committee of the criminal biology collection points that the scope of research on heredity
be extended beyond the prisoners. He wanted to record in index files all sectors of the population he viewed as potentially criminal—irrespective of whether criminal offenses could be proven or not. In June 1933 Viernstein named the groups that he wanted to see registered in terms of their hereditary composition: "orphans and welfare children, drinkers, those vocationally impoverished for inherent reasons, the feeble-minded, certain groups of psychopaths, specific forms of epileptics, the mentally ill and deaf-mutes."\textsuperscript{21} It was this utopian goal that Robert Ritter sought to implement several years later.

Viernstein also proved himself to be a precursor in political objectives. In 1933 he demanded the detention and sterilization of 'incorrigible criminals' in order to "liberate society in the future from the recognized permanent damage they cause and to relieve the burden of cost incurred by the state through their eternal demands on the courts." "A 'people in distress,'" he asserted, "has other tasks than to breed inferior beings and those with a strange nature."\textsuperscript{22}

From the outset, ideas of internment and prevention of procreation were a part of the criminal biology discussion. In his main work Lombroso had already proposed that born criminals be locked up for life. He also wanted to influence reproduction: "The only means of preventing the unfortunate creatures, which criminals are, from seeing the light of the world, would perhaps be to prevent alcoholics and criminals from marrying."\textsuperscript{23}

It should be emphasized that some roots of the criminal biology thesis supported by 'Gypsy experts' of the National Socialist state lay outside both Nazi ideology and \textit{Völkisch} racial theory. Lombroso, for instance, was a socialist whose writings did not include the notions of ethnic cleansing and genocide. In a tract on anti-Semitism, he attributed hate between peoples to the "most repugnant secretions of man." "The European nations," claimed Lombroso, were a "mosaic of various races," and the mixing of races was one of the most important factors in progress. In contrast, anti-Semitism was atavistic.

Viernstein was also not a National Socialist but a faithful Catholic and German nationalist, whose thinking was conservative. In the first years of the National Socialist dictatorship, however, he welcomed the new regime. His authoritarian ideas of state and society doubtlessly made this easier for him. The initial impetus for his proposals lay in what he believed to be the exigencies of the state. The dignity and civil rights of the individual were to him hurdles to redressing the problems. In a memorandum from June 1933 he stated his opinion that "the interests of the general public and the state [should] take priority over those of the culprit's personality."\textsuperscript{24}

Without necessarily thinking in National Socialist or \textit{völkish}-racist terms, criminal biologists since the 1890s had prepared the ground upon which
Robert Ritter would later move. Genocide, however, cannot be solely explained by ideas of criminal biology. It was only after the encounter with other concepts, such as racism and Social Darwinism, and the centralization of the criminal police from 1936 onwards that the specific fatal dynamic was created of which Sinti and Roma in Germany and in many other European countries were to become the victims.

THE AFTERLIFE OF AN IDEA

Besides its role as a forerunner of National Socialist Gypsy policy, criminal biology had a further impact. Its assumptions were incorporated into textbooks for training jurists and police officers. Even after the collapse of the National Socialist regime, the ideas of criminal biology circulated in this area in particular. The work of Franz Exner, one of Germany’s leading criminologists, is one example. His textbook, over three hundred pages long, was published in three editions, 1939, 1944 and 1949. While Exner published both books from the Nazi period under the title *Criminal Biology*, he had the post-war one published under the more harmless title, *Criminology*. The third edition of Exner’s work was the first important criminology textbook published in West Germany after the war.

In both the 1939 and the 1944 editions Exner treated the criminality of the Jews and the Gypsies. In 1939 Exner wrote of the Jews that their criminality corresponded in its “basic features to the Jewish essence.” He continued: “In the social as in the antisocial he [the Jew] is driven by the most powerful striving for profit and pursues his material interests often unhesitatingly and inconsiderately.”

After the war Exner removed the passages on the Jews; he discussed, however, the alleged criminal tendency of the Yenish, a group of travelers living in the south of Germany, who were generally characterized as ‘white Gypsies,’ ‘vagrants’ or as ‘persons who roam around in the gypsy way.’ Exner summarized the results as follows: “Mostly they wander around as good-for-nothings and vagabonds and even when their blood is mixed they are incapable of denying their ‘type’ and its asocial ways.” Further, he says: “One confirmation of the durability of such blood elements is the experience gained in education institutions and workhouses, where the descendants of these groups mostly prove to be completely resistant to change.”

As evidence for this thesis Exner cites the work of Robert Ritter. The phrase, “From what Ritter told me,” suggests that Exner had personal contact
with the leading ‘Gypsy specialist’ of the National Socialist regime. Exner was not alone: various authors were still referring to Ritter’s research into the 1960s. Nobody found this contentious—German society ignored the genocide of the Sinti and Roma until the 1970s. Within criminology itself, criminal biology began to lose its influence in the course of the 1960s when a younger generation of criminologists turned their attention to the sociological causes of crime.

CONCLUSIONS

The development of criminal biology suggests that the persecution of Sinti and Roma needs to be viewed against the broader backdrop of social history. The fear of specific sections of the underclass that had gripped the bourgeoisie must find a more analytical focus than has been the case till now; likewise, the attempts made to discipline such groups. The demands arising from criminal biology were directed against groups that followed a traveling way of life, or were purported not to lead settled lives. This connection became clear during National Socialism: the same authorities that persecuted ‘asocials’ also had Sinti and Roma sent to the concentration camps. The thinking that nurtured this persecution may be observed from the late 19th century.

NOTES

2. Ibid., 170f.
7. Ibid., p. 120.
14. Ibid.
15. Ibid.
24. See Michael Zimmermann in this volume.