

The Limits of Labeling: Towards a Materialist Critique of Antigypsyist Profiling by the Police

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1 The Ideology of Antigypsyist Policing

Antigypsyist profiling by German police has a specific feature: the police construct Roma as prone to committing property crimes in an organized manner. In 2017, the Berlin police stated in the Police Crime Statistics (*Polizeiliche Kriminalstatistik*; PKS) that Roma ‘family clans’ were responsible for so-called ‘trick burglaries’ (see Ruiz/Borcke 2022, pp. 22–29). These burglaries accounted for approximately 6 out of 1000 of all reported burglaries, while only 86 suspects had been identified — roughly 0.6 out of 1000 of all individuals identified as burglary suspects (see Fischer 2019). In response to public criticism, the then Senator of the Interior, Andreas Geisel, acknowledged the illegality of this practice of profiling, after initially having defended it. Since 2018, the PKS no longer explicitly references Roma ethnicity.

The objective of this contribution is to offer a materialist critique of anti-gypsyist policing in Germany, focusing on its ideological underpinnings. In critical police studies, particularly within the German context, social constructivist approaches dominate the discourse. These approaches conceptualize racism primarily as a form of discrimination rooted in police discretion.¹ The existing body of research on police racism is extensive, covering both racist attitudes (see Andree et al. 2024) and institutional racism,² while racism *itself* remained unexplained. Within Europe and Germany specifically, antigypsyist racism has been widely documented, particularly in relation to racial profiling and the police choice of suspects.

One of the central issues in social constructivist critiques of police racism and racial profiling is the assumption that institutional racism is a precondition for racial profiling. In other words, racism is explained by referring

1 See for example the contributions by Behr 2019, pp. 17–46; Dangelmaier 2021, pp. 359–382; Herrnkind 2014, pp. 35–58.

2 See for example the volume edited by Hunold/Singelnstein 2022.

to racism itself — a circular reasoning that results in a tautology (see Fields/Fields 2014, p. 120, fn. 14). This paper shifts from tautological explanations to a materialist critique, arguing that racism must be explained rather than assumed.

The labeling approach remains the most advanced social constructivist theory in critical criminology. Despite debates about its sufficiency and declining relevance, the labeling approach remains a crucial critique of etiological criminology. This contribution argues that the labeling approach should not be dismissed; rather, it must be taken seriously and further developed. At the same time, its limitations must be acknowledged — limitations that can be overcome through a materialist epistemology and a critique of ideology.

Ideology describes a relationship of consciousness to social conditions that is stereotyped. It derives from conflicting interactions and contradictions within the capitalist lifeworld (*Lebenswelt*) that transform experience into clichés (see Lorenzer 1995), meaning rigidified symbolic forms of knowledge that have been detached from their respective objects. Ideology therefore has to “be constantly produced and reaffirmed in social life” (Fields/Fields 2014, p. 137). The ideology of security, or security fetishism (see Kern 2016), reifies social problems into abstract ‘threats’. The specific characteristics of individual social problems — from phenomena of violence to mental illness and homelessness — appear indistinct; as problems of ‘security’ rather than ‘safety’. Security fetishism is articulated differently across various historical periods, as well as across different sites and institutions within the capitalist mode of production (see Egger 2024a, p. 71). While this applies to most forms of police racism, it is particularly evident in antigypsyist resentment, as I will demonstrate. This is not only the case because antigypsyist profiling has a long historical tradition within the police that is comparatively well documented, but also because the racialization of poverty-related crime is particularly evident. Antigypsyism is not to be mistaken as a mere ‘resentment against Sinti’, but to be analyzed as the partial stigmatization of the Eastern European vagrant class, its racialization, and the ascription of an alleged tendency toward deception, theft, and property crime. Antigypsyist ideology thus serves as a framework that connects diverse and seemingly unrelated forms of criminalization and policing practices: policing directed at visible manifestations of poverty based on civil complaints (see Herring 2019; Thurn 2020; Thurn 2021), data-driven policing targeting residential burglaries (see Egbert 2018, pp. 653–663), the prosecution of robberies based on criminal complaints, and

border controls aimed at itinerant crime, grounded in an internal police ideology.

2 The Labeling Approach & its Critics

The labeling approach (see Becker 1963; Goffman 1963; Lemert 1967) has contributed significantly to the important insight that deviance and criminality are not the result of a subjective career — as assumed by etiological criminology — but rather the consequence of labeling certain behaviors as deviant. The labeling approach provides critical criminology with “anti-institutional knowledge” (Cremer-Schäfer 2014, pp. 65–70, my translation). Criminality is understood as a label; institutions of social control define actions and behaviors as deviant. In doing so, these institutions do not merely identify behavior as deviant but actively participate in the production of deviance (see Keckeisen 1976, p. 37). The labeling approach emphasizes that institutions such as the police, courts, prosecutors, and social workers do not simply respond to social problems — they also construct them by defining them as such. Deviance is a social relation and the result of interpretative processes. This occurs in a twofold manner: first, by “creating the institutional and material conditions that define the object of possible interventions,” and second, by reifying those affected (*ibid.*, p. 10). The act of labeling behavior as criminal renders it “unintelligible” (Cremer-Schäfer 2014, pp. 65–70), as this labeling abstracts from the social genesis of ‘deviance’: ‘theft is theft’, no matter if one steals to harm the victim or to merely obtain food to eat. This is the ideological framework within which law enforcement agencies operate, even before racializing property and other crimes in an antigypsyist manner.

The next section summarizes key labeling theorists and explores the limits of social constructivist criminology and institutionalized antigypsyism. Edwin M. Lemert (1967) offers a critique of Robert Merton’s theory of anomie, particularly the notion that deviance can be explained through the discrepancy between culture and social structure, as it remains unclear what precisely constitutes a given culture. This leads to a problem of circular reasoning and the reification of culture and so-called values (see Lemert 1967, pp. 5–6). Rather than assuming a unified cultural value system, Lemert emphasizes the plurality of cultural values. He shifts analytical attention to the concept of secondary deviation; deviation in response “to the overt and covert problems created by the societal reaction to primary de-

viation” (ibid., p. 17). Accordingly, Howard S. Becker (1963) shows how labeling limits non-deviant choices, transforming situations and interactions. The stigma of deviance reshapes both self-identity and social perception. As a result, those labeled as deviants are increasingly excluded from access to social, symbolic, and material resources. Additionally, Erving Goffman (1967) sought to understand social order not through a structural-functionalist lens, but as the outcome of contingent negotiations within social interaction. Building on Émile Durkheim, he described social relations as shaped by rituals that follow specific rules. In everyday life, practices of ‘deference and demeanor’ structure both self-relations and relations to others (see Goffman 1956, pp. 473–502). Against this practice-theoretical background, Goffman develops a theory of social stigma, emphasizing not only the arbitrariness of what is defined as deviant but also how stigma transforms and damages social identity (see Goffman 1963).

Fritz Sack imported the labeling approach into Germany in the late 1960s. In his seminal essay ‘New Perspectives in the Sociology of Crime’ (*Neue Perspektiven in der Kriminalsoziologie*, 1968/2016), Sack argued that criminality functions as a “negative good” (ibid., p. 119), mirroring positive goods or privileges in that it *denies* rights and *restricts* access to resources. Just like positive goods, however, it is also actively distributed within society: “In this sense, deviant behavior is whatever others define as deviant. It is not an inherent characteristic of the behavior itself but something that is attributed to it” (ibid., my translation). At the same time, Sack insists that labeling cannot simply be derived from the intentions of those who label. Instead, he argues — drawing on Noam Chomsky — that overarching social meta-rules determine which groups of people come to be perceived as deviant. These meta-rules, however, are subject to constant change. As a result of this reasoning, it is possible for Sack to state that Cesare Lombroso’s biological criminology of the 19th century, which has been rightfully and widely discredited, and Merton’s sociological strain theory of the 20th century each represented the historically ‘obvious’ and ‘legitimate’ way of conceptualizing deviant behavior in their respective eras.³ Sack thereby radicalized the labeling approach, compared to earlier proponents who took

3 Keckeisen (see 1976, pp. 71–72), however, referring to Jürgen Ritsert and Immanuel Kant, points out that grounding the labeling process in meta-rules ultimately leads to an infinite regress because the question of when exactly judgment should be applied to determine whether a rule fits a given phenomenon is merely deferred rather than resolved.

a more moderate social constructivist stance. As Wolfgang Keckeisen (see 1976, pp. 42–44) pointed out early on, there are still elements of objectivism in Becker’s conceptualization of ‘deviance’⁴, while Lemert’s empirically deductive, social-behaviorist theory cannot, in its entirety, be considered part of the labeling approach. I would argue that this also holds true for Goffman’s body of empirically driven work.

The Marxist critique of the labeling approach taken by Falco Werkentin et al. (1972) emphasizes that labeling is not arbitrary and entirely contingent, but instead follows the objective laws of the institutions of private property and the production and circulation of commodities; only the “violations of the conditions of production and reproduction of the respective society establish the criminal character of certain acts” (ibid., p. 251, my translation) — and nothing else. While it is essential to highlight the social constitution of morals and their corresponding laws in relation to modes of production, the critique by Werkentin et al. stopped short of addressing how this accounts for variations in the criminalization of particular acts. This is especially striking given that the critique was formulated only a short time after the end of National Socialist rule and its criminal policies, which had clearly exceeded the necessities of capitalist reproduction. Referencing Karl Korsch, Keckeisen formulated an anti-critique, identifying in Werkentin et al. a “metaphysical dualist” (Korsch, cit. in Keckeisen 1976, p. 144) approach that disregards societal norms, values, and definitions as irrelevant in comparison to the capitalist mode of production.

Henner Hess and Sebastian Scheerer (2011) proposed a more differentiated critique. They accused proponents of the *radical* labeling approach advanced by Sack of engaging in *ontological gerrymandering*, by which they mean an epistemological inconsistency. This means using radical constructivism for general criminality while adopting naïve realism for specific crimes. According to Hess and Scheerer, radical social constructivism tends toward an anti-realism that denies *any* objective quality of deviance or of the deviant subject (see ibid., p. 34). They identify parallels between this radical version of the labeling approach and radical post-structuralist theories, which, in their view, focus predominantly on the self-referential

4 In the context of deviancy, Becker (1963) distinguishes four types of subject: the conforming (who do not break rules and are not perceived as deviant), the pure deviants (who violate rules and are recognized as such), the falsely accused, and the secret deviants. The latter two categories — especially the secret deviant — are only conceptually plausible if there exists, at least to some degree, an objective criterion for determining whether a rule has been broken independently of the labeling process.

dynamics of signs and signifiers (see *ibid.*, p. 40) — which corresponds with my critique of tautological studies on police racism (see above). Hess and Scheerer argue that because of this, the radical labeling approach leads to a narrowly defined concept of criminality, as it can only address acts already labeled as such by law enforcement agencies, courts, and judges (see *ibid.*, p. 35). However, this ontological gerrymandering is not merely the result of theoretical shortcomings or poorly developed arguments. Rather, it reflects contradictions inherent in the concept of ‘criminality’ itself, and in social reality more broadly. Social relations possess an *objective* dimension that is not immediately transparent but instead requires *interpretation* (see Keckeisen 1976, pp. 142–145). This is why Helga Cremer-Schäfer also noted that most proponents of the labeling approach missed the opportunity to integrate their findings into a broader social theory and to reflect on the variations of labeling within (neo)liberal and Fordist modes of production (see Cremer-Schäfer 2018, pp. 8–17). Yet, returning to etiology or considering an ‘integration’ (see Hess/Scheerer 2011, pp. 27–46) of objectivist (economical, psychological, etiological ...) and labeling theories, would not resolve these problems. Keckeisen rightly rejected an undialectical integration fifty years ago (see Keckeisen 1976, pp. 142–145). Instead, a “materialist reorientation of phenomenology” (*ibid.*, p. 147) is necessary to explain the dual mediation of (intentional) practice and (subjective) experience, as well as the (objective) constitution of lifeforms and their corresponding labeling as deviant in a class-based society.

Theories that claim normative conflicts result merely from one group imposing its values on another through sheer power, neglect the fact that the modes of production subordinate both — and ultimately all — parties involved in conflicts (see Keckeisen 1976, p. 118). Police cannot criminalize and racialize one contingent group of people merely by its discretionary power (*Definitionsmacht*; see Feest/Blankenburg 1972). With regard to ‘deviance’ and especially ‘criminality’, the legal *form* constitutes the ideology of free and autonomous judicial subjects — a prerequisite for the exchange of commodities (see Paschukanis 1929/2003) — who can be held accountable for ‘criminal acts’, i.e., reified social problems: “The illusion that there are criminals among citizens other than those who offend against property is ideology in the true sense: an appearance to which individuals necessarily succumb due to their role in the social process” (Horkheimer 1939–40/1985, p. 267, my translation). Max Horkheimer, however, offers a twofold critique of ideology: on the one hand, he critiques the notion that the relationship between crime and punishment is not determined by the principle of ex-

change; on the other hand, he challenges the idea that the principle of exchange could legitimately claim universal validity — particularly on the eve of fascism and National Socialism (see *ibid.*, p. 276). The latter point is supported by Heide Gerstenberger's (2017) historical studies in a much broader sense. She intervened in the revived German debate about state derivation (*Staatsableitungsdebatte*; see Kannankulam 2020), stating that the full development of capitalism does not necessarily lead to a neutral state monopoly (see Gerstenberger 2017, p. 64) or a neutral bourgeois law: "Open oppression and the overt use of state violence have always been practiced wherever and whenever they were not prevented by political struggles" (*ibid.*, p. 65, my translation). This has serious implications for whether or not practices are labeled as illegal — for example, whether or not the transportation of migrant labor is prosecuted as human trafficking (see below). It needs to be analyzed "why and how exactly antigypsyist stereotypes and interpretive patterns prevail within a specific constellation and among certain groups of social actors" (Freckmann 2024, p. 56). This means that the modes of criminalization, as well as their implied racism, cannot simply be deduced from the abstract necessities of capitalist production; yet, the analysis of such labels — whether racist or not — cannot be separated from the specific local and historical political economy either.

3 Institutionalized Antigypsyism: An Ideology

What is antigypsyism? Following Markus End (see 2014, p. 30), antigypsyism can be briefly defined as a homogenizing and racializing social construction of 'gypsies' as a single ethnic group to whom an inherent inclination toward deviant behavior is attributed. The label 'gypsy' is predominantly, although not exclusively, applied to people who speak Romani (Roma and in the German context mostly Sinti), but also to other minority groups (such as the Yenish) of various nationalities. End also emphasizes that antigypsyism is not merely a form of prejudice but is embedded in discriminatory institutions and structures (see *ibid.*).

We can thus speak of institutionalized racism within the police when discriminatory differentiation based on the attribution of ethnic characteristics becomes a guiding principle for individual action within the organization — regardless of personal intention or attitude (Bosch/Thurn 2022, my translation; see also Feagin 1977).

Antigypsyism, even when it occurs in the police, is not always institutionalized. The institutionalization cannot be defined as an inherently *necessary* aspect of it, but antigypsyism often does assume institutionalized forms within the police, which underscores the importance of focusing on these dynamics.

Antigypsyism cannot be defined simply as “racism against Sinti and Roma” (End 2014, pp. 34–35, my translation). Such a definition would conceptualize a specific form of racism solely in relation to its object, as if that object were not itself shaped — and in part even constituted — by racism. An objectivist definition of antigypsyism fails already on the grounds that Yenish and other non-Romani-speaking groups are also affected by such resentments, and that ‘Romanians’ and ‘Bulgarians’ often function as police codes for the previous label ‘gypsies’ now the explicit term has become taboo (see End 2019). This coding practice correlates with the police practice of border checks and searches of Romanian, Bulgarian, and other Eastern European migrants, tourists, and labor travelers. Antigypsyist ideology also overlaps significantly with resentments directed against ‘vagrant workers’ and/or ‘beggars’. It follows that antigypsyism should not be understood as ‘racism against people who are defined as ‘gypsies’ or who self-identify as ‘Roma’. Rather, antigypsyism refers to a historical coincidence in the literal sense: the stigmatization of (segments of) the Eastern European vagrant class and their racialization. The stigma contains recurring ‘elements’ (see Maciejewski 1996) that have proven historically stable, such as an alleged tendency toward deception, theft, and property crime. In a recent survey, 46.7 % of respondents in West Germany and 58.7 % in East Germany agreed with the statement that Sinti and Roma are predisposed to criminal behavior (see Decker et al. 2024).

Using the example of institutionalized antigypsyism within the police force, the necessity and complexity of a critique of antigypsyist ideology can be illustrated. Police operate within a “social terrain” (Fields/Fields 2014, pp. 136–148; Egger 2024b, pp. 73–74) in which they investigate various, often unrelated, forms of blue-collar and vagrant ‘criminality’. Within this social terrain, the police engage in antigypsyist profiling by associating certain forms of ‘itinerant criminality’ with a construction of an ethnically defined group. These measures are often characterized by the use of racialized antigypsyist profiling, including border controls (see Fährmann et al. 2022), begging bans (see Thurn 2020), or predictive policing (see Egbert 2018). Racial profiling of this sort has often proven to be a self-fulfilling prophecy (see Thurn 2024) with very little effect on ‘criminality’ but

instead serving as the “ritual repetition of the appropriate social” police “behavior” (Fields/Fields 2014, p. 139).

Police work is information work (see Ericson 1994, p. 149), and police officers are knowledge workers (see Brodeur/Dupont 2006) producing data, statistics, working files, etc., thereby objectifying and institutionalizing knowledge. The ethnicity of ‘Roma’ has been marked in national police and Europol’s databases and crime statistics since the late 1990s (see End 2019, pp. 34–37; Töpfer 2019). According to the stereotype, ‘Roma’ are particularly likely to operate across borders. Europol therefore creates working files on ‘itinerant criminal groups’ (see Töpfer 2019). The commissioner general of the Belgian federal police, who coined the term ‘itinerant crime’, characterized the perpetrators of said crimes as “nomads” and “people without a real homeland” (ibid., p. 165). Itinerant crime includes primarily theft and burglaries (also ‘with the help of minors’), and even human trafficking (see ibid., pp. 168–169). As Europol states, the “most represented nationalities in these networks are Croatian, Georgian, Italian and Romanian. The networks are described as either clan/family based mobile organized crime groups (MOCGs), or as Thieves in Law” (Europol 2024, p. 32). Itineracy and nomadism are a crucial part of antigypsyist labeling. Niina Vuolajärvi (2024) has also pointed out that ‘wandering women’ becomes a synonym for sex workers from Eastern Europe in Scandinavia. In Germany, police have collected detailed files on ‘gypsies’ since the 19th century (see Ruiz/Borcke 2022, with further references). In 1899, the ‘Gypsy Police Unit’ (*Zigeunerpolizeistelle*) was established in Munich (see Diener 2021). The files collected by police officers there were used by a new office of the same name, then affiliated with the State Office for Identification (*Landeserkennungsamt Bayern*) (see ibid., p. 183), until the abolition of the ‘Gypsy Police Unit’ in 1965 and the repeal of the Vagrancy Ordinance (*Landfahrrerverordnung*) in 1970. But even afterwards German police continued the collection of explicit antigypsyist data up until the 1980s and after that often under different labels such as ‘frequently changing location’ (*Häufig wechselnder Aufenthaltsort*; HWAO), ‘travelers’, or ‘mobile ethnic minority’ (*Mobile ethnische Minderheit*; MEM) (see End 2019).

Police associate Roma with ‘clan-like’ extended family structures (see Töpfer 2019, pp. 162–179; End 2019; Ruiz/Borcke 2022) and ‘organized crime’ (see Töpfer 2021). ‘Organized crime’ is often less a description of the crimes themselves than a specific mode of criminal prosecution — that is, “the establishment of multi-offense investigation units that pursue an offender-oriented approach” (Töpfer 2021, p. 75, my translation). These

approaches can imply large-scale stop-and-search operations, such as the ones conducted in North Rhine-Westphalia in November 2012, during which police stopped thousands of vehicles whose drivers were perceived as having a ‘southern appearance’ — without yielding any significant results in the investigation of burglaries (see *ibid.*, p. 77–79). In Germany, a racializing discourse on so-called ‘clan criminality’ is already well established. The term commonly refers to Lebanese, Kurdish, and/or Turkish families, who are portrayed as mob-like structures (see Liebscher 2020). While certain members of these families are involved in criminal acts (if we temporarily accept this categorization and set aside the labeling perspective), the labeling of *extended* families as ‘clans’ amounts to a racist categorization of a broad group of people — often not even directly related to those individuals involved in illicit activity — as inherently criminal and as people who “fundamentally reject the German legal system” (Federal Criminal Police Office, cited in Ruiz/Borcke 2022, p. 26). The construction of ‘clan criminality’ has been widely criticized for its inaccuracy, racist undertones, and conceptual imprecision (see Brauer et al. 2020; Jacobsen et al. 2024, pp. 190–204; Liebscher 2020; Ruiz/Borcke 2022).

Antigypsyist profiling refers to the racialized association of Roma and other groups with property crimes. The police focus is on home burglaries, theft of construction materials (see Töpfer 2020; Töpfer 2021), trick theft, or organized begging, often described in sensationalist terms as a so-called ‘begging mafia’ (see Schreiter 2015). The State Criminal Police Office of Lower Saxony and the General Prosecutor’s Office in Celle (Landeskriminalamt Niedersachsen/Generalstaatsanwaltschaft Celle 2024), for instance, claimed that “members of a Romanian extended family living in Hanover” (*ibid.*, p. 33, my translation) were responsible for theft and property crimes, thereby labeling all relatives as potentially criminal. In July 2009, officers from the Baden-Württemberg State Criminal Police Office investigated the murder of police officer Michèle Kiesewetter, who had been killed by the far-right terrorist group National Socialist Underground (*Nationalsozialistischer Untergrund*; NSU). As part of their inquiry, they conducted investigations in Serbia, where they interrogated a Romani man using a polygraph and psychological assessments. The officers assumed that the man had “obviously grown up in a world of lies and deceit from early childhood” and was a “typical representative of his ethnicity” (Tagesspiegel 2014, my translation).

Antigypsyist criminalization and labeling take on a logic and momentum of their own within police knowledge, practices, and profiling. They do not simply derive from economic functionality, and often do not even follow economic criteria of efficiency. During our ethnographic research at a border police station,⁵ the vast majority of Romanian and Bulgarian vehicles that were stopped were held for more than 10 to 15 minutes, yet only one driver was actually detained — and that for a minor offense, resolved through the payment of a fine of a few hundred euros. At the same time, however, these criminalizations and labelings are not arbitrary; they follow a specific ideological logic regarding the conditions and consequences of unregulated labor.

3.1 Material Conditions of Irregular Work

For a materialist analysis, it is crucial to examine why people behave in ways that are labeled as ‘deviant’ by law enforcement agencies—as well as why such labels are applied. However, unlike etiological criminological theories, these reasons are not to be sought in the deviant careers of individuals or in their respective milieus, but rather in the ruptures, crises, and conflicts that arise from the reproductive modes of society itself. Historically, vagabondage has been a “social issue, arising with the beginning of manufacturing”, as Laura S. Tittel (2020, p. 3) points out. She demonstrates that the expropriation and displacement of rural populations were crucial factors in establishing early capitalist modes of production. While Karl Marx failed to consider antigypsyist resentments as a material force shaping reality (see Egger 2024a), it is important to recognize that the institutionalization of antigypsyism followed a broader historical trajectory. The fight against vagabondage coincided with “the first early modern anti-‘gypsy’ laws in England under Henry VIII” (Tittel 2020, p. 11) in the late 15th century. Roma were labeled as inherently incapable of manual labor —

5 The research consortium MEDIAN (Mobile Contactless Identity Verification in the Field of Migration, 2018 to 2022, funded by the Federal Ministry of Education and Research) primarily aimed to investigate mobile technologies to support identity verification. The subproject conducted at the Research Institute for Public and Private Security (FÖPS) of the Berlin School of Economics and Law (HWR Berlin) examined the legal and social science prerequisites for ensuring high legal and ethical standards in the conduct of police checks, incorporating the perspectives of those affected. For this purpose, participant observations were carried out by Hartmut Aden, Alexander Bosch, Jan Fährmann, and myself.

or forming a national state — due to their supposedly vagabond lifestyle (see *ibid.*, p. 8). This also holds true for more recent German history. In 1926, Bavaria enacted the “Law on Combating Gypsies, Travelers, and Work-Shy People” (*Gesetz zur Bekämpfung von Zigeunern, Landfahrern und Arbeitsscheuen*), which, among other measures, allowed for the forced placement in ‘labor institutions’ if they could not provide proof of regular employment. In the early years of National Socialism, a decree issued across the German Reich (June 6, 1936) declared wandering Roma a ‘plague’, instructing German police to forcibly settle them, monitor horse markets, and ensure that Roma children attended school (see Diener 2021, p. 76). Nazi antigypsyist policies culminated in the genocide of European Sinti and Roma, during which German military forces, police, the SS (*Schutzstaffel*), and their bureaucratic collaborators murdered hundreds of thousands of people labeled as ‘gypsies’.

In the post-war period up until shortly before reunification, institutionalized anti-Romani profiling persisted, which was also shaped by personnel continuities, as Eveline Diener (2021) illustrates, for example, in the case of the Bavarian State Office of Criminal Investigation. In 1995, border controls within the EU were relaxed. Shortly thereafter, European police agencies placed the concept of ‘itinerant’ or ‘cross-border’ crime on the agenda (see above). Their focus now included “property crime, in particular residential burglaries, car and metal thefts” (Töpfer 2019, p. 164). Europol was tasked with collecting data on cross-border crime networks, with a particular emphasis on Eastern European perpetrators involved in property crimes (see *ibid.*, p. 167–171). This tendency intensified especially with the EU’s second eastern enlargement in 2007, which granted Romanians and Bulgarians freedom of movement within the EU.

Many migrant workers who continue to arrive in Germany find employment in agriculture, often on a seasonal basis. During the COVID-19 pandemic, their role was deemed systemically relevant to the German economy, leading to their integration into the formal labor market through regular employment contracts (see Freckmann 2024). More broadly, deregulated, low-paid migrant labor is vital to many economies (see Gerstenberger 2017, pp. 448–473). In Germany, Romanian and Bulgarian workers have been employed through service contracts and subcontracting agreements (see *ibid.*, pp. 461–465). While many Bulgarian and Romanian migrants work in low-wage jobs and sometimes even as (often illegalized) day laborers (see Riedner 2017), it is important to note that a disproportionately high number of highly qualified employees from Romania and Bulgaria have

also migrated to Germany (see Dietz 2022). The prediction, however, that the eastern EU enlargement would lead to mass ‘migration into German welfare systems’ has proven to be unfounded.

Notably, crimes committed against migrant workers — such as wage theft — are rarely a focus of German law enforcement. However, the material conditions of low-wage, high-risk labor, combined with exclusion from the Romanian and Bulgarian job markets (often for antigypsyist reasons; see Breimo/Baciu 2016), create conditions conducive to ‘crime’. There is a structural homology between ‘criminal’ behavior and white-collar criminality (that is typically not investigated by the same police agencies — and not with the same efforts or moral panics). Europol (2024, p. 41) has identified “migrant trafficking”, “environmental crime”, and “waste and wildlife trafficking” as key areas of concern — the latter two being rather new aspects of antigypsyist labeling. While “migrant trafficking” is particularly relevant to low-paid agricultural labor, “waste trafficking” and illegal waste disposal — such as supposed dumping in the Czech Republic (see Angerstorfer 2025)⁶ — are forms of economic crime in Germany that allow companies to avoid high disposal costs. Another common example of economic criminality is unauthorized construction, which presents local authorities with a *fait accompli* (see quer 2024) and often violates environmental regulations. Small-scale environmental crimes, such as cutting down trees during bird nesting season, are frequently carried out in broad daylight but seldomly prosecuted by authorities with the same effort as small-scale burglaries.

3.2 Limits of Labeling: Towards a Materialist Labeling Approach

Radical social constructivist critical criminology does not suffice to explain antigypsyist profiling. The forms of ‘crime’ that are attributed to ‘Romanians’ and ‘Bulgarians’ are, for the most part, not violations of common morals such as physical or psychological violence, but crimes that on the surface violate the laws of exchange while being simultaneously shaped by the requirements of capitalist production. This is not to say that crime itself constitutes productive labor, as Marx has satirically (and yet, not wrongly) stated (see Marx 1862–1863/1965, pp. 363–364), but rather, as

6 Shortly before the final submission of the article, it was reported that German customs had arrested the managing director of the accused company, on August 21, 2025 (see Ascherl 2025).

Horkheimer put it: “The criminal represents the more irrational, primitive racket in contrast to the state-protected class monopoly” (Horkheimer 1939–1940/1985, p. 270, my translation). As previously discussed in relation to ‘organized itinerant crime,’ the labeling approach helps explain why certain economic activities are criminalized while comparable offenses remain legal or under-enforced. However, it cannot account for how these actions originate in the first place, nor for the variations and changes in the institutional prosecution of crime, which depend on fluctuations in labor markets (and, of course, labor struggles). Similarly, the moral panic that fuels the antigypsyist phantom threat of the so-called ‘begging mafia’ or ‘day laborers’, which often justifies police measures, cannot be adequately explained as merely a function of preserving modes of production. Theories that follow the labeling approach — and critical criminology in general — therefore cannot abstain from a reflection on the ever-changing modes of production and their subjective and objective mediations; as Keckeisen did in his attempt to outline a materialist phenomenology, or as Cremer-Schäfer and Steinert (see 2014, pp. 84–100) did in their critique of work ethics in the successive stages of capitalist development. The racialized ideology of crime fluctuates between the necessarily false consciousness that arises from the legal form of bourgeois social relations, and the moral panic-driven labeling of certain groups as inherently deviant. Neither the historical forms of criminalization nor the respective forms of racism can be deduced from the capitalist mode of production without an analysis of their respective historical context — yet, they shape the subject that is being labeled just as much as they shape the label itself.

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