

The Legal Vulnerability and Invisibility of the Roma people in Brazil in times of COVID-19 Pandemic

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This paper presents my reflections, as a result of my PhD research in Law in the PhD Program at Estácio de Sá University, under the supervision of Professor Fernanda Duarte.

I argue that there is a legal invisibility of Roma people¹ in the Brazilian legal field, as an ethnic minority and vulnerable group. In fact, compared to other vulnerable minorities or groups, they seem to be the most invisible among the invisible. There is a lot of research in Brazil, in the field of Law, on various ethnic minorities or on vulnerable groups, such as LGBTQI +, Afro-Brazilians, Indigenous peoples, Quilombolas, disabled people and women, some of which even have explicit constitutional status in the text, but very little material on Roma people.

The COVID-19 pandemic has exacerbated this invisibility and intensified the vulnerability of these groups.

In order to explore this hypothesis, I adopt the Methodology of Semiolinguistic Discourse Analysis, of French matrix, with its explanations of the “said”, the “unspoken” and the “discursive formations” of the legal-political discourses.

In order to highlight this supposed invisibility, I try to guide my investigation through the following guiding questions: do the demands of this ethnic group reach the judiciary or not? If there are judicial decisions, what are those decisions? Are there legal references about Roma people? Are there academic legal papers about them?

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My main objective is to interrogate these texts and discourses and describe how the Brazilian legal field can give the Roma people visibility.

Despite the supposed legal invisibility of the Roma people in Brazil, we are a country that curiously has had two Presidents of Roma origin. The first one was Washington Luís (1926 - 1930), from the Calé group. And the second one was Juscelino Kubitschek (1956 - 1961), who was 50% Roma Czech on his mother's side.

The arrival of Roma people in Brazil took place around 1574, when the Portuguese crown expelled the Calon of Iberian origin, who left Spain, went to Portugal and were later exiled to Brazil. Later, from the 19th century, the Romani peoples arrived. These people who spoke the Roma language, were divided into several sub-groups, with their own denominations, such as Kalderash, Matchuaia, Lovara, Curara, Ursar and, in same time, but in a much smaller number, the Sinti, both war refugee immigrants. These groups of immigrants brought with them their metal working skills as coppersmiths, blacksmiths, goldsmiths and a rich and vibrant culture that has been readily absorbed into that of contemporary Brazil. Nevertheless it is true to say that their presence in the world is surrounded by persecution, prejudice, hatred and segregation.

In the 18th century, when they arrived in Minas Gerais, the government ordered that all Roma people who were in the province be sent to Rio de Janeiro, and from there, deported to Angola. Every citizen of Minas Gerais had the legitimacy to give a Roma people arrest warrant.

In São Paulo, in the same eighteenth century, the expulsion of gypsies was also ordered, as it was understood that the group was “harmful to the population because of playing games and other disturbances”.

And so, since the arrival of the Roma people in Brazil, they have faced expulsion from the places where they try to plant roots, which leads them to migrate from place to place, because their presence was and unfortunately is still regarded as unwelcome. Nobody wants to see them in their territories. Not wanting to see them is not wanting to give voice and visibility to the Roma people. It is thus the case that the nomadic characteristic of the Roma people is a direct result of the prejudices and persecutions they have suffered and continue to suffer. Nomadism, therefore, is not a characteristic, but a consequence of their segregation.

It is estimated that the number of nomadic, semi-nomadic and settled Roma in Brazil today is around 1.5 million. However, this data is not reliable, because, until today, neither the IBGE or any other demographic or scientific research institution has carried out a survey of the Roma population.

I do not question in my research whether there is racial prejudice and discrimination against Roma people. This is evident as we can see from United Nations Committee on the Elimination of Racial Discrimination General Recommendation No. 27, of 08/16/2000, which lists a series of measures that States must adopt in order to combat discrimination against Roma communities. These include action:

- I. to promote respect and overcome prejudices and negative stereotypes against the Roma people community;
- II. implement appropriate measures to ensure that members of Roma people communities have access to effective judicial measures in cases related to violations of their fundamental rights and freedoms;
- III. develop and implement policies and projects aimed at avoiding the segregation of Roma people communities with regard to housing, considering Roma people communities and associations as partners in the development of housing construction, restoration and maintenance projects;
- IV. avoid the installation of Roma people communities in isolated camps and without access to average assistance and other basic needs;
- V. ensure that Roma people have equal access to health care and other social security services, eliminating any discriminatory practices in this area;
- VI. initiate and implement programs and projects in the field of health for Roma people, especially for women and children, in view of the situation of vulnerability experienced by them, due to extreme poverty, low level of education and cultural differences.

Considering this recommendation and other regulations, such as Decree no. 7,037, of December 21, 2009, which instituted and instituted the National Human Rights Program - PNDH-3, the Federal Public Attorney edited RECOMMENDATION No. 14/2018 for:

1. Promotion and implementation of public policies aimed at Roma people, with the objective of guaranteeing their constitutional and legal rights.
2. Promotion and appreciation of Roma culture, such as educational campaigns, edition of booklets and teaching materials related to Roma people, dissemination in the media and promotion of cultural events related to Roma people.

Corroborating these recommendations, there is a bill, PLS 248/2015, for the creation of the Roma Statute that determines that it is the duty of the State and society to guarantee the Roma population the realization of equal opportunities, the defense of individual ethnic rights, collective and diffuse and to combat discrimination and other forms of ethnic intolerance.

May 24th was established as the National Day of the Roma, by means of a decree signed by then President Luiz Inácio Lula da Silva, in recognition of the contribution of Roma people to the formation of Brazilian history and cultural identity.

In the current Brazilian government, on January 15th 2019, Minister Damares Alves, from the Ministry of Women, Family and Human Rights, defended support for the Roma populations of Brazil. She recognized the need to protect this ethnic group and their traditions. Visibility for Roma people is necessary to combat prejudice. For her “knowing the history of the country's ethnic groups is important to combat marginalization”.

Despite the existence of these recommendations, of the bill, of Minister Damares' speech and of the existence of a national day recognizing the value of the Roma people, Brazilians of Roma ethnicity continue to live without public policies and effective programmes for improving their conditions of life and combatting the prejudice that they routinely still face. In the BBB - Big Brother Brazil - television program, in 2016, a woman known as Dona Geralda said: “What a bad smell this room is. It looks like a Roma tent!”. This allegation generated widespread criticism on the part of the Roma and wider community and alike and continues to attract negative commentary on social media networks.

The racial prejudice that the Roma community is subject to seems to have only been recorded in videos and social networks, and has not yet been adjudicated upon by the judiciary. Still reflecting this atmosphere of prejudice in Brazil, we saw, in a video recorded at the ministerial meeting on April 22nd, 2020, that the Minister of Education, Abraham Weintraub, declared that he dislikes the terms "indigenous peoples" and " Roma people "because for him,

there is only "one people in this country". According to Weintraub, it is necessary to end "this business of peoples and privileges".

This environment of prejudice and lack of access to fundamental rights has deepened especially in the scenario of the COVID-19 pandemic. As can be seen in a number of reports that end up giving voice to this minority, Roma peoples in Brazil are suffering from repossession suits or even expulsion from their camps by the police, on the basis of a widespread belief that they are dirty and transmitters of the CORONA vírus.

A recent news item published by a group of researchers on indigenous populations from the Federal University of Santa Catarina² reported that

"In a moment of total fragility, in the midst of this pandemic, we have news that in the last 24 hours more than 100 Roma families have been displaced in the municipalities of Dois Vizinhos-PR and Guarapuava-PR. With the presence of police officers and representatives of the municipal governments of the respective municipalities, the Roma chiefs were ordered to withdraw with their camps from the occupied territories."

The National Union of the teachers of higher education institutions, by the ANDES-SN has published a note reporting Romaphobia (or Antiziganism) and violent clashes between Roma communities and public authorities.³

"In early February of this year, the Nova Canaã camp, located in the region of Rota do Cavalo, in Sobradinho-DF, was invaded by armed people in broad daylight, shooting and setting fire to the tents. The attack resulted in four deaths. Due to fear and insecurity, the group was forced to leave the land, where they had been since 2014, abandoning achievements for their survival, such as vegetable garden and chicken raising."

In June 2020, the Municipality of Paim Filho, located in the State of Rio Grande do Sul-BR filed with the Sananduva District Court a repossession action aimed at evicting public

² MONTEIRO, Edilma do Nascimento J. "**Eu preciso ficar em casa e minha casa é a barraca!**" - **Famílias ciganas são expulsas de seus acampamentos no PR.** Disponível em: <<https://nepi.ufsc.br/2020/04/02/eu-preciso-ficar-em-minha-casa-e-minha-casa-e-a-barraca-familias-ciganas-sao-expulsas-de-seus-acampamentos-no-pr/>>. Acess: 20.05.2021.

³ Diretoria Nacional do ANDES-SN . **NOTA DA DIRETORIA DO ANDES-SN DE REPÚDIO À CIGANOFOBIA E À VIOLÊNCIA DO PODER PÚBLICO COM POVOS CIGANOS.** Disponível: <<https://www.andes.org.br/conteudos/nota/nOTA-da-DIRETORIA-dO-aNDES-sN-dE-rEPUDIO-a-cIGANOFOBIA-e-a-vIOLENCIA-dO-pODER-pUBLICO-cOM-pOVOS-cIGA/page:4/sort:Conteudo.updated/direction:DESC.>> Acess: 20.05.2021

property occupied by a group of Roma who did not have authorization from public and health agencies to occupy those lands”⁴:

"We communicate to the entire population Painfilhense that the Municipal Administration, as soon as it learned about the installation of a group of Roma people in Paim Filho without any authorization from public agencies and / or health, sought to take the necessary and legal steps to vacate the public space.

Thus, still on Monday morning, June 1st, the Legal Department of the Municipality of Paim Filho filed a repossession suit with the Court of Sananduva aiming to vacate the property.

Such action by the municipality is due to the current health situation resulting from Covid-19 and aims to protect the population Painfilhense and safeguard public health."

In addition, because they live in camps that often lack urban infrastructure, they do not have access to the internet, which has made it impossible for them to participate in the Emergency Assistance Program sponsored by the Brazilian government and which required them to be able to use a cell phone application, and have access to running water to wash their hands.

I still have to continue collecting my data and conducting my analyses, but we can see in these brief reflections that the invisibility and vulnerability of the Roma people has been confirmed as a hypothesis. Thank you very much for your attention and I hope at our meeting next year to present my final results.

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⁴ **CIGANOS SE INSTALAM EM PAIM FILHO E MUNICÍPIO PROTOCOLOU AÇÃO DE REINTEGRAÇÃO DE POSSE COM O OBJETIVO DE DESOCUPAÇÃO DO IMÓVEL.** Disponível em: <<https://www.cristalinafm.com.br/noticia.php?id=4445>>. Acesso em 10.05.2021.

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