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Anti-Roma Racism and Punitive Governance in the Habsburg and Yugoslav Monarchies,
1848–1941

[Protiromski rasizem in kaznovalna politika v Habsburški monarhiji in Kraljevini Jugoslaviji,
1848–1941]

Abstract

This doctoral dissertation analyzes the structural marginalization of Roma and Sinti in the Habsburg and Karađorđević monarchies from the 1848 Revolution and the abolition of serfdom to the 1941 Axis invasion of Yugoslavia. I argue that the period from the 1840s to the 1940s constituted a distinct historical conjuncture of anti-Roma structural racism in the Habsburg and post-Habsburg region. I develop this claim by combining methods and explanatory tools from the fields of social history, conceptual history, legal history, and historical materialism.

To reconstruct Habsburg and Karađorđević governance of Romani and Sinti inhabitants, I use archival collections from post-Habsburg and post-Yugoslav state archives in Vienna, Graz, Belgrade, Trieste, Bern, Prague, Opava, Ljubljana, Maribor, Novo mesto, among others. I rely primarily on documents produced by state bureaucracies, administrations, parliaments, gendarmeries, and courts in their creation and implementation of anti-Roma governance on imperial, regional, and local levels.

Through these archival collections, I chart the juridical, institutional, and economic contexts of structural Romani marginalization. I focus on the material conditions of their social reproduction, that is, access to labor, property, land, and political agency. I differentiate between mute economic compulsion and extra-economic coercion which, I claim, overdetermined Romani and Sinti lived experiences as well as their access to the means of social reproduction. By mute economic compulsion, I refer first and foremost to the transition from feudalism to capitalism in East Central Europe. By extra-economic coercion, I mean a type of governance which targeted Roma and Sinti as a separate population category, and which used technologies of punishment such as limited mobility, hindered economic activities, confiscation of property, incarceration, forced labor, and forced settlement and resettlement. I refer to this type of governance as *anti-Roma punitive governance*. I argue that anti-Roma punitive governance, combined with the economic pressure on Roma as a predominantly propertyless population, amounted to structural racism. I refer to this as *anti-Roma racism*.

The dissertation consists of six chapters that follow a chronological and thematic order. Each chapter contains one central claim and describes the core conditions of Romani and Sinti lives in the socio-economic environments of the Habsburg and Yugoslav monarchies from 1848 to 1941. Throughout the dissertation, I show that both the Habsburg and the Yugoslav monarchies enacted punitive governance against their Romani and Sinti inhabitants. Not only did both monarchies enact punitive governance, but there was also an explicit continuity between their anti-Roma policies; the Yugoslav interwar policies directly copied the Habsburg anti-Roma legislation. I also emphasize that the Habsburg and Yugoslav

governmentalities were embedded into wider regional, inter-imperial, and international anti-Roma projects.

In Chapter 1, “From masterless to landless,” I explain how anti-Roma punitive governance took shape in the Habsburg Empire in the immediate aftermath of the revolutionary year 1848. I show the relevance of the year 1848 – the Constitution, the abolition of serfdom, the ensuing land reform, and the increased tension over private property with the enclosures of commons – to Romani history in the Habsburg Empire. The crux of this post-1848 period, I claim, is the following transition: Roma and Sinti, the majority of whom were not enserfed and were thus considered *masterless* in the Habsburg feudal society, became one segment of the *landless* imperial inhabitants after the abolishment of serfdom. The chapter thematizes the broken promise of the March 1849 Constitution, which promised national equality to all imperial peoples. Likely in response to the Constitution, a group of Romani imperial inhabitants prepared a petition to demand national equality. The petition bore no fruit. The imperial center in Vienna doubled down on already existing feudal anti-Roma governmentality and established a rigid anti-Roma punitive governance system, which I analyze in Chapter 2.

In Chapter 2, “Habsburg dual legal system,” I analyze the legal history of anti-Roma punitive governance from 1848 to 1918. My main claim is that the Habsburg monarchy maintained a dual legal system with separate legislation to govern Romani and Sinti imperial subjects punitively. The chapter presents how the reforms of Habsburg travel permits in 1857, municipal residency in 1863, and the Austro-Hungarian Settlement of 1867 directly influenced the lived experience of Roma and Sinti. I then present the further entrenchment of Habsburg anti-Roma governance, which, I claim, took shape with explicitly anti-Roma decrees in the 1860s, 1870s, and 1880s. This period culminated in a uniform decree on anti-Roma governance in the Austrian part of the Dual Monarchy in 1888. This decree, I claim, came as the high point of legislative pressure on Romani and Sinti lives. It continued to be implemented until the dissolution of Austria-Hungary, and remained in use in interwar post-Habsburg states, ensuring a continuity of Habsburg anti-Roma governmentality.

Chapter 3, “Punitive governance as racialized governance,” presents a close reading of three trials against a Romani family from Habsburg Trieste in 1889, at the high point of an already consolidated anti-Roma punitive governance in Austria-Hungary. Through a close reading of three trials, I show that the punitive governance directed at Roma and Sinti rested predominantly on a racialized use of the Vagrancy Law. The racialized use of vagrancy laws was, not coincidentally, a common technique in punitive governance of colonized or subjugated populations at the end of the nineteenth century.

In Chapter 4, “Inter-imperial punitive governance,” I present the attempts of multiple European empires and monarchies to coordinate the inter-imperial prevention of Romani mobility in the second half of the nineteenth and the first decade of the twentieth century. I show that Habsburg anti-Roma punitive governance was a part of Central European anti-Roma projects. I also emphasize the involvement of scientists – especially those who worked under the self-professed banner of Gypsy-lore – in inter-imperial anti-Roma punitive governance. I show that their involvement resembled the involvement of scientists in the governance of colonized peoples.

In Chapter 5, “Interwar ruptures and continuities,” I move chronologically from the Habsburg imperial context to the interwar period, namely, to the Habsburg successor states and specifically to the Karađorđević monarchy as a case study. I show that the fall of the Austrian empire and the establishment of new states in 1919 was a new opportunity for a radical break from the past. A new attempt at Romani emancipation in the political, social, and economic

sense took place. I analyze how the 1919 Minority Treaties, new definitions of citizenship and statelessness, as well as the discourses of self-determination and national minorities opened a new vista for Romani self-assertion. I also show that this vista closed immediately after the Habsburg successor states consolidated their sovereignty; they continued to implement Habsburg anti-Roma policies.

In Chapter 6, “Yugoslav punitive governance,” I show how this continuation of anti-Roma punitive governance played out in the Yugoslav monarchy. I follow the Yugoslav anti-Roma legislature throughout the 1920s and 1930s. I observe the escalation of state violence through the interactions between Roma and the gendarmerie, which was primarily tasked with implementing punitive governance. I end the chapter in the Spring of 1941, when the Axis powers jointly occupied the Kingdom of Yugoslavia and implemented their own genocidal racial laws on Roma and Sinti.

In the Conclusion, I present some preliminary claims on the mechanisms of racial capitalism in the Habsburg and Yugoslav monarchies and outline my plans for further research on the political economy of anti-Roma racism, which I aim to develop into a book manuscript.

Keywords: Roma, Sinti, Habsburg Empire, Kingdom of Yugoslavia, anti-Roma racism, punitive governance, racial capitalism

Povzetek

V doktorski disertaciji analiziram strukturno marginalizacijo Romov in Sintov v Habsburški monarhiji in Kraljevini SHS (Kraljevini Jugoslaviji) od revolucije leta 1848 in odprave tlačanstva do leta 1941 oziroma invazije sil osi na Jugoslavijo. Trdim, da je bilo obdobje od 1840-ih do 1940-ih specifična zgodovinska konjunktura protiromskega strukturnega rasizma v habsburški in posthabsburški regiji. To trditev razvijem z metodami in razlagalnimi orodji socialne zgodovine, konceptualne zgodovine, pravne zgodovine in zgodovinskega materializma.

Za rekonstrukcijo habsburške in jugoslovanske politike do Romov in Sintov uporabim arhivske zbirke iz posthabsburških in postjugoslovanskih državnih arhivov na Dunaju, v Gradcu, Beogradu, Trstu, Bernu, Pragi, Opavi, Ljubljani, Mariboru in Novem mestu. Analiziram predvsem vire, ki so jih pri ustvarjanju in izvajanju protiromske politike ustvarjali državna birokracija, administrativni in zakonodajni organi ter državni represivni aparat na medimperialni, imperialni, nacionalni, transnacionalni, regionalni in lokalni ravni.

Z uporabo teh imperialnih in državnih arhivskih zbirk očrtam pravni, institucionalni in ekonomski kontekst strukturne marginalizacije Romov in Sintov. Osredotočam se na materialne pogoje njihove družbene reprodukcije, zlasti dostop do prihodka, premične lastnine, zemlje in političnega delovanja. Analitično razlikujem med ekonomsko in neekonomsko prisilo, ki sta, trdim, določali dostop Romov in Sintov do sredstev družbene reprodukcije. Z nemo ekonomsko prisilo merim predvsem na prehod iz fevdalizma v kapitalizem v habsburški in posthabsburški regiji. Kot zunajekonomsko prisilo opisujem vrsto politike oziroma vladanja, ki je ciljalo na Rome in Sinte kot ločeno kategorijo prebivalstva in uporabljalo metode kaznovanja, kot so omejevanje mobilnosti, oviranje gospodarske dejavnosti, zaplemba lastnine, pripor, zapor, prisilno delo, prisilna naselitev in preselitev. To vrsto vladanja imenujem *protiromska kaznovalna politika* (ang. *anti-Roma punitive governance*). Trdim, da je protiromska kaznovalna politika v kombinaciji z ekonomskim pritiskom tranzicije v kapitalizem za Rome predstavljala strukturno oviro pri družbeni reprodukciji, ki jo imenujem *protiromski strukturni rasizem*.

Disertacija je razdeljena na šest kronološko in tematsko ločenih poglavij. Skozi celotno disertacijo pokažem, da sta tako habsburška kot jugoslovanska monarhija oblikovali in izvajali kaznovalno politiko proti romskim in sintskim prebivalcem. Obstajala je eksplicitna kontinuiteta med njunima protiromskima politikama, saj je Kraljevina SHS neposredno nadaljevala habsburško protiromsko zakonodajo.

V prvem poglavju, naslovljenem »Od odsotnosti gospodarja do odsotnosti zemlje«, pojasnim, kako se je po revolucionarnem letu 1848 oblikovala nova konjunktura protiromske kaznovalne politike v Habsburški monarhiji. Prikažem pomen leta 1848 – prve ustave, odprave tlačanstva in zemljiške reforme – za strukturno pozicijo romskih in sintskih prebivalcev. Trdim, da je bistvo obdobja po letu 1848 naslednji prehod v njihovi poziciji: Romi in Sinti, ki večinoma niso bili tlačani in so zato v fevdalni družbi veljali za *podanike brez (fevdalnega) gospodarja*, so po ukinitvi tlačanstva in tranziciji v kapitalizem postali prebivalci *brez zemlje*. Poglavlje tematizira prelomljeno obljubo ustave iz marca 1849, ki je obljubljala nacionalno enakopravnost vsem narodom cesarstva. Verjetno kot odziv na to ustavno obljubo je skupina romskih prebivalcev pripravila peticijo, v kateri je od cesarja zahtevala narodno enakopravnost. Peticija ni obrodila sadov. Ravno nasprotno: novoustanovljeno ministrstvo za notranje zadeve na Dunaju je afirmiralo obstoječe

protiromsko upravljanje in vzpostavilo protiromsko kaznovalno politiko, ki jo natančneje analiziram v drugem poglavju.

V drugem poglavju z naslovom »Habsburški dvojni pravni sistem«, analiziram pravno zgodovino protiromske kaznovalne politike od leta 1848 do 1918. Moja glavna trditev je, da je monarhija vzdrževala dvojni pravni sistem z ločeno zakonodajo za romske in sintske prebivalce. Poglavje predstavlja, kako so reforme potnih listov in potnih dovoljenj leta 1857, domovinske pravice leta 1863 in avstro-ogrska nagodba leta 1867 posredno vplivale na življenjsko izkušnjo Romov in Sintov, zlasti na omejitve njihove pravice do mobilnosti in opravljanja mobilnih ekonomskih aktivnosti. Nato predstavim nadaljnje utrjevanje habsburške protiromske politike, ki se je konsolidirala s serijo izrecno protiromskih dekretov v šestdesetih, sedemdesetih in osemdesetih letih 19. stoletja. To obdobje je doseglo vrhunec s centraliziranim odlokom o protiromski politiki v avstrijskem delu monarhije leta 1888. Ta odlok je, trdim, predstavljal vrhunec zakonodajnega pritiska na družbeno reprodukcijo Romov in Sintov. Habsburški represivni organi so ga upoštevali do razpada Avstro-Ogrske. V uporabi je ostal tudi v habsburških državah naslednicah, kar je zagotovilo kontinuiteto habsburške protiromske politike v medvojnem obdobju.

Tretje poglavje, »Kaznovalna politika kot rasizirano vladanje«, predstavi študijo primera sojenj romski družini Carri v habsburškem Trstu leta 1889, na vrhuncu protiromske kaznovalne politike v Avstro-Ogrski. S podrobnim branjem treh sojenj pokažem, da je kaznovalna politika, usmerjena proti Romom in Sintom, temeljila predvsem na rasizirani uporabi zakona o potepuštvu. Izpostavim tudi, da je bila rasna uporaba zakonov o potepuštvu ob koncu devetnajstega stoletja običajna tehnika upravljanja s koloniziranim prebivalstvom v mnogih evropskih imperijih.

V četrtem poglavju z naslovom »Medimperialna kaznovalna politika« predstavim poskuse več evropskih imperijev in monarhij, da bi v drugi polovici devetnajstega in prvem desetletju dvajsetega stoletja uskladili svoje načine preprečevanja mobilnosti Romov in Sintov. Pokažem, da je bila habsburška protiromska kaznovalna politika vpeta v srednjeevropske protiromske projekte. Poudarjam tudi vpletenost znanstvene produkcije vednosti v medimperialno protiromsko kaznovalno politiko. Izpostavim, da je bila njihova vpletenost strukturno podobna vpletenosti znanstvene produkcije vednosti v upravljanje s koloniziranimi ljudstvi.

V poglavju »Medvojni prelomi in kontinuitete« se kronološko premaknem iz habsburškega imperialnega konteksta v medvojni kontekst habsburških držav naslednic s poudarkom na Kraljevini SHS. Pokažem, da sta bila razpad Avstro-Ogrske in ustanovitev novih državnih tvorb leta 1919 nova priložnost za radikalen prelom s preteklostjo. Zgodil se je nov poskus romske emancipacije v političnem, socialnem in ekonomskem smislu. Analiziram, kako so manjšinske pogodbe iz leta 1919, nove definicije državljanstva in apatridnosti, pa tudi diskurzi o samoodločbi in narodnih manjšinah odprli novo perspektivo za romsko samouveljavitev na polju političnega delovanja. Pokažem tudi, da se je ta perspektiva zaprla takoj, ko so države naslednice utrdile svojo suverenost, saj so vse nadaljevale z izvajanjem habsburške protiromske politike.

V šestem poglavju, imenovanem »Jugoslovanska kaznovalna politika«, pokažem, kako se je to nadaljevanje protiromske kaznovalne politike odvijalo v Kraljevini SHS oziroma Kraljevini Jugoslaviji. Predstavim pravno zgodovino jugoslovanske protiromske zakonodaje. Izpostavim stopnjevanje nasilja državnega represivnega aparata, ki se kaže v interakcijah med Romi in žandarmerijo, ki je bila primarno zadolžena za izvajanje kaznovalne politike. Poglavje zaključim s pomladjo 1941, ko so sile osi okupirale Kraljevino Jugoslavijo in za upravljanje z

Romi in Sinti uvedle genocidne rasne zakone. S tem se, tako trdim, tudi zaključni obravnavani konjunktura antiromskega strukturnega rasizma (1848–1941), ki je temeljila na kombinaciji ekonomskega pritiska tranzicije v kapitalizem in neekonomskega pritiska dvojnega pravnega sistema.

V sklepu disertacije predstavim svoje preliminarne ugotovitve o mehanizmih rasnega kapitalizma v habsburški in jugoslovanski monarhiji ter orišem svoje načrte za nadaljnje raziskave politične ekonomije protiromskega rasizma, ki jih želim razviti v knjižni rokopis.

Ključne besede: Romi, Sinti, Habsburški imperij, Kraljevina Jugoslavija, antiromski rasizem, kaznovalna politika, rasni kapitalizem