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STATE REPRESSION AGAINST THE *JATAKS* OF THE *HAJDUKS* IN THE FIRST HALF OF THE 19TH CENTURY

Abstract: This paper focuses on legal and illegal measures that were applied by the Serbian state against *jataks* and *hajduks*. The essence of the state's struggle against these social categories came down to cruelty and unwillingness to compromise. Due to such a setup, both categories (thugs and thieves) were largely equalized, which was unfair and excessive. After regulating the legal position of a *hajduk*, many legal provisions had an addendum that stipulated that they also apply to *jataks*. An additional problem of the state's cruelty was reflected in the fact that there were at least two types of *jataks*. Namely, in addition to real *jataks* who were calculated accomplices of *hajduk* and who had their own benefit from *hajduk* crimes, there was also a certain number of "unwanted *jataks*". The role of the state was particularly important in this period. While, on the one hand, it demanded the full cooperation of the population in dealing with the bandits, on the other hand, it did not provide citizens with any protection or help in case of bandit's revenge. The state demonstrated its cruelty by not trying to separate the real from the unwanted *jataks*, and by not sanctioning the latter.

Keywords MeSH: death penalty, victimization, punishment

Non-MeSH: bandits, executioners, state measures, sanctions, state retaliation

For decades, the *hajdučija* phenomenon has been researched from a historical, social and legal perspective. The increased interest in the *hajduks* contributed to the fact that almost no country in the surrounding area was deprived of their presence and activity. The population of the entire Balkans suffered the crimes of these bandits. [1 p5; 2 p60] Although some *hajduks* fought together with the insurgents against the Ottomans and the chronicles recorded their anti-feudal and liberation actions, history will associate their name primarily with crimes. Our interest in this article is focused on the helpers of *hajduk*-bandits.

The young Serbian state in the 19th century did not have an adequate response to this social phenomenon. A wide variety of measures were used to suppress the *hajdučija*. Punishments were generally harsh and often exceeded the limits of elementary legality. Despite the State's determination to neutralize the *hajduks*, they resisted for a long time. Many factors influenced their resilience. Those are population ignorance, cruelty and disobedience, the fact that people went to the *hajduk* for a small thing, and the poor's romanticization of the *hajduks*. All these factors contributed to the maintenance of *hajdučija*¹ for almost two centuries [4 p80; 5 p16]. The "weak mind" of the *hajduks* also contributed to the romantic note.

According to Radoš Ljušić, they cherished friendship, cooperation, chivalry, and physical abilities more than they were interested in the long-term benefits they would get from the loot. It was vital for them to conquer and win the prey, but they were not very interested in what they would do afterwards. The poor ideology of the *hajduk* had no state-building threads until the revolution of 1804 when it was refined to a small extent. [6 p37] However, the *hajduks* were an endemic phenomenon. The disproportionate spread of the *hajdučija* in Serbia shows, among other things, how much influence mentality² and geographical conditions³ had on this phenomenon.

The life of the *hajduks* was challenging and complicated. Their freedom and existence were almost always uncertain. They lived in constant danger. Their lives were usually short and harsh and required additional help and support from unremarkable people who were believed to live peaceful and honest lives. Those people were called the *jataks*. The bandit's way of life exposed its protagonists to many dangers. Climatic disasters, persecution by the authorities, diseases, and lack of a place to live are some reasons that forced the *hajduks* to seek help from the local population. Residents who helped *hajduks* - the *jataks* provided shelter mostly during the winter («from St. Dimitry day to St. George day») but also during organized pursuits.

¹ The *Hajdučija* persisted until the beginning of the Second World War. Although sporadically, between the two world wars, the *hajduks* also committed crimes. However, after 1930, the number of the *hajduks* gradually decreased. Chronicles record the dramatic liquidation of the Barbulović brothers Trifun and Dimitrije from Požarevac. These two *hajduks' cruelty* was recounted for a long time. The army participated in their liquidation by firing at their house from a cannon. The last *hajduk* of the former Yugoslavia was Draža Gligorijević Vrlanac. After returning from America, where he worked in a steel mill, Vrlanac rebelled in the forest, where he terrorized the inhabitants of the Homolje mountains for ten years as a bandit, sometimes in association with Ivan Babejić and Bogdan Milojević. Draža Gligorijević was captured on October 4, 1940. was sentenced to death by the District Court. He met his death under occupation. German sources record that Draža Glogorijević from Vrlan, the last *hajduk* of former Yugoslavia, a multiple bandit and murderer, was shot. [3 p147-153, 193-197]

² Jovan Cvijić recognized a particular "Hajduk" type of population in the impulsive Dinars who inhabited Dragačevo and the Zlatibor region. An essential characteristic of the inhabitants of the *hajduk* type was, among other things, that they went to the forest and ran away to the *hajduks* often, even for small injustices. [7 p360]

³ Certain regions of Serbia, the Zlatibor and Dragačevo districts, were in the lead with the *hajdučija* compared to the rest of Serbia, where this phenomenon also existed, but not in such extension. That is why special regulations (*Lex specialis*) were issued, such as the Užice Law and the Law on Settlement in the Užice and Čačak Districts, which were applied only in these regions. [8 p9]

Of all the factors that influenced the fact that the State could not adequately respond to the terror of the *hajduk* until the beginning of the Second World War, the *jataks* played the most crucial role. The saying «without *jataks*, there are no *hajduks*» expresses the essence of the institution of *jataks*. In addition to guarding the *hajduks* and their prey, they procured them food, clothing, shoes, and ammunition and provided them with accommodation and shelter in dugouts or their own houses. In return, they received part of the prey from the *hajduks* and protection from their enemies. [9 p18] Without the support of the *jataks*, the *hajduks* would not have been able to avoid the authorities for years (some even decades). Due to their importance concerning the *hajduks*, the State equated them with these bandits in the penological sense. The inappropriate punishment of the helpers also had a political tone. In addition to special prevention, i.e. punishment for concrete cases, the government wanted to achieve an effect in terms of general prevention as well. The population, which could eventually, under certain circumstances, support the *hajduks*, was intimidated by harsh punishments.

The state authorities' measures against the *jataks*

The States' reaction to the crimes of the *hajduks* and the help of the *jataks* was variable, but it always had only one goal - eradicating the *hajdučija*. The fact that *jataks* are well-known as the key to the success of *hajdučija* did not prevent the competent authorities from changing their strategy in pursuit of the same goal. Apart from the harsh sanctions that dominated the system of measures, the authorities sporadically rewarded the *jataks* if they betrayed the *hajduks*. Such actions did not represent the government's generosity, but a calculated act aimed at eliminating this phenomenon. [10 p97] The measures against the *jataks* of the *hajduks* are numerous, and it is not easy to define or systematize them. The inextricable connection between the *hajduks* and the *jataks* led the legislator to equalize their legal position in many segments and to prescribe identical punishments for both groups. That is the reason why it is not possible to observe the role of the *jataks* separately, and it is not possible to ignore the legal position and the penal policy of the State against the *hajduks*.

Legal and factual measures against the *jataks* have constantly intertwined with each other. Among the first regulations⁴ that regulated the State at the time of The First Serbian Uprising - Karadorđ's Code (Article 34) specifically regulated the *jataks* of the *hajduks*. This article in the Code⁵ can show the importance of the *jataks* for the problem of the *hajdučija*. This provision predicted that the one who gives bread to a *hajduk* and does not report it to the village authorities would be prosecuted and that he would receive a punishment for helping the *hajduks*. This regulation had the aim to equalize the *hajduks* with the *jataks* in terms of Criminal Law and punishment. The Serbian legislator did not abandon that principle even later. Still, on the contrary,

⁴ Due to scarce historical sources, it cannot be determined with certainty whether this regulation remained at the level of a proposal or project or was applied. [11 p117; 12 p8]

⁵ How important it was is clear from the article 35 of Karadorđ's Code that is regulating sectioning of *jataks* even before sanctioning of *hajduks*.

they constantly express the desire to use harsh measures to keep the *hajduks* away from the *jataks*. One of the unjustified and unpopular measures against the *hajduks* was the collective responsibility of the entire village and the *hajduk*'s or *jatak*'s family. These measurements resulted in that whole families being often expelled from the hearth. [14 p140-141; 11 p120]

The death penalty was provided for a few severe crimes in the State of the First Serbian Uprising. The method of execution of the death penalty differed depending on the crime committed. Dr Dimitrije Papazoglu believes that a particular part of the death and corporal punishments applied in Serbia during the First Serbian Uprising has its roots in feudal Law [15 p162]. Not every method of execution of death and corporal punishment applied to criminals in 1804-1813 could hit the *hajduks*. There is an evident desire to humiliate the *jataks* and *hajduks* through how the authorities deprived them of their lives or physically punished them. The death penalty of hanging and crucifixion to the wheel was reserved for the *hajduks*. Those who aided the enemy during the war by providing personal services and supplies, spies, were punished in this way. The shooting was primarily used in the army as an honourable death penalty. [15 p79-111]

The penalties against the caught *hajduk* or a *jatak* were uncompromising. They showed the determination of the authorities to respond to the crime with the same measure. The type of crime that the *hajduks* would commit would be symbolically applied to them. The *hajduks-murderers* would be hanged over the grave of the murdered. And arsonists at the place where they started the fire. The *jataks* would be punished by hanging in the areas where they kept the *hajduks* safe. A *jatak*, who helped a *hajduk* in 1820, was hanged so high in front of his house. No one was allowed to take him down until the corpse fell from the gallows. The residents were threatened that anyone who dared to take him down from the gallows would take his place. [16 p 323]

In cases where the *jataks* did not admit they had helped the *hajduks*, they were interrogated under torture. In 1825, the *jataks* from Užice District, the village of Rečice were heard this way. Under pressure, they admitted that a group of the *hajduks* came to them. Due to not reporting that visit, they were punished. Interestingly, despite the retaliation and the desire to embarrass them, the Court individualized the sanctions imposed on the *jataks*. The first *jatak* was penalized with one slap, the second with 40 beats, and the third was sentenced to 70 beats. As an example to others, but also because of personal responsibility, the serf of the village, Stevan Janković, received the heaviest punishment. After Janković admitted that Jovan Tatić, a head of the *hajduks*, used to come to his house, the People's Court sentenced him to death. The firing squad carried out punishment in his village. The serf's body was "thrown on the wheel."⁶

⁶ The penalty of "throwing on the wheel" was carried out terrifyingly. The victim would be turned with his face towards the sky, tied to a cartwheel, while support - usually a stone - would be placed under his head. His arms and legs would be spread out and tied to a wooden grid, lying on the ground. The executioner would symmetrically hit the bones of the condemned man's arms and legs with a wheel or an iron bar until he broke his limbs. After that, the executioner would also crush the convict's head. The convict's broken body would be tied to the wheel so that his arms and legs

Local authorities also sanctioned the *jataks* and the *hajduks* with soft sanctions, like «administrative measures». In the 1930s, a regulation was passed that related to the control of employment and the movement of persons. During the year 1829 (November 4), the legal system integrated the «Order for household heads to prevent the *hajdučija* by accepting the *hajduks* in winter without a written «testimony» or passport». This regulation provides for several measures to control residents and was aimed at preventing the *hajduks* from finding work during the winter. Households were not allowed to take in undocumented foreigners. The host was not allowed to fire the employee without the knowledge of the Magistrate who issued the passport and information about where the person worked. Nor was the servant permitted to leave the employer without a valid reason. The authorities established a whole network of responsible persons, counts and serfs, monks, and priests, who were obliged to control the householders and their people in the household. [20p 73-74]

The authorities have consistently acted tactically towards these groups and have combined measures of repression and amnesty. From time to time, an option was left for the *hajduks* and the *jataks* to retreat without consequences. Every *hajduk* who surrendered to a serf was forgiven, while every *jatak* who betrayed a *hajduk* would receive a reward. [21 p274-276] A bail was a special measure against *hajdučija* in this period. During the rising of the *hajdučija* in the thirties of the 19th century, bail was massed. So, for example, every man in Rujanski District had to have his own surety that guaranteed that he was not a *jatak* or a *hajduk*. [21 p274-276]

At the end of the 1930s (on July 8, 1839), police issued a decree that increased the degree of the authorities' organization in suppressing the *hajdučija*. The order mentioned above-established pyramidal control, so district heads are authorized to control their districts and monitor the work of district heads. If they noticed irregularities in the work of the district chief, they had to investigate the mistakes they made during their actions immediately. In case of need, they were obliged to immediately go after the *hajduks* and inform neighbouring county chiefs about the pursuit. We also find anti-*jatak* measures in this regulation. According to the regulation, potential groups, the village, and municipality inhabitants, were strictly threatened. «Whoever among the villagers does not help to find the bad people will be treated the same as the culprit himself. The court will later punish them in the same way as the culprit himself». [20 p130]

During the time of *The Constitution Defenders*, the Criminal Law for burglaries and thefts was issued to suppress burglary and robbery. Aleksandar Karađorđević passed this regulation with the government's consent on May 26, 1847. The main reason why the Law was issued is the frequency of crimes against property, which prevented the normal life of the population. The emphasized cruelty of this Law led deputies of the Užice District to oppose it and to demand that criminal-legal matters be regulated based on European legislation. They wrote, «It is a shame to even hear about such a law and impose it on a free Serb to groan under it. The legislator was trying to

follow the edge of the wheel. They would place the body tied to a cartwheel on a high stake and keep it exposed for days to intimidate the citizens. [9 p46; 17 p29; 18; 19 p147]

prove to Europe that all Serbs are *hajduks*, thieves and incorrigible". [22 p184] Among other things, the Criminal Law provided the death penalty for anyone who breaks into someone's house, shop, or any building, opens it, sets fire to it, or steals any goods regardless of its value. [23 p28] In addition to the death penalty, the Law also prescribed a sentence of whipping "three hundred boys twelve times on the spot" for anyone who steals an ox, horse, or other livestock whose value exceeds ten thalers. [23 p28]

One of the intimidation measures of the *jataks* and the *hajduks* was the public exhibition of the severed heads of the *hajduks*. In the late fifties of the 19th century, this type of treatment and torture in court proceedings met with the first significant public opposition.

This opposition some even consider as a kind of movement. Because of such police authorities' behaviour, at the end of 1848, there was an open conflict between the Užice District Court and the Head Office. Both were situated in the same building. Officials of the Head Office stuck the heads of liquidated *hajduks* on spikes in the fence, which stood there for several days spreading the unpleasant smell of rotting human flesh. To the appeals of the Court, the official of the Head Office, Miljco Trifunović, replied that it was an unnecessary affair, staged due to bureaucratic competition and the court's greed, and stated the following: "The heads were indeed stuck on the spikes in the fence, but it is already known that they are the *hajduks* and why they are exposed, it does not matter whether they are on the fence or on the ground, with the fact that they could not be found on the ground to keep «because of the dogs». The purpose of keeping them on the fence is to frighten bad people, especially the prisoners kept in the same building, and bring them «to their senses», while the good people rejoice when they see how the *hajduks* have been brought to justice.» [24]

In the criminal-legal sense, throughout the 19th century, the *jataks* were punished in the same way as the *hajduks*. That fact had far-reaching consequences for the *jataks* and their families. In the same way, the Law on burglaries and theft regulated the position of the *jataks*. This regulation stipulates that prisoners will be punished similarly to those who committed burglary or robbery. [24] These draconian sanctions led to the conclusion of a high-level crime rate in this area at the end of the first half of the 19th century. That is why, for example, whipping is prescribed, even for cattle theft. The penal nature of the Law, set in this way against thieves and their helpers, essentially prepared the path for the passing of the famous Law of Užice. In addition to criminals and their helpers – the *jataks*, extended the punishment to the families of the *hajduks*, for whom the harsh death penalty was also prescribed.

In addition to implementing regulations and carrying out orders from the central government, the elders actively suppressed the *hajdučija* by personally beating the robbers. The local authorities' actions and the harsh provisions of the Penal Code for burglary and theft gradually raised the tide of violence against all offenders, which also affected the attitude towards the *hajduks* and the *jataks*. In such social circumstances, to solve the *hajduks' valuable evil* [25], on April 13, 1850, the Decision on the extermination of the *hajduks* and their *jataks* in the Užice District (from now on referred to as the Užice Law) was passed.

The consistent application of the Užice Law destroyed many families in ten years.⁷ Historians rate this Law as one of the strictest in the entire legislation of Serbia. The District Courts' judgments were final and immediately delivered to the district chiefs for execution. In this way, the regular courts received the powers of the superior courts and the right to sentence the *hajduks* and their *jataks* to death summarily. [26 p76]

In addition to provisions of an organizational and technical nature, the Užice Law stipulates, among other things, the obligation (Articles 3 and 4 of the Law) to hand over the caught *hajduk* to the competent district court. In the case of proof of guilt, the Court will sentence the defendant to death and hand him over to the district administration, which will consider the verdict as "final and executory" and will immediately execute him. Following this provision, the Law stipulates that those proven to be the *jataks* should be treated according to this rule. [27]

Suppose the chief suspects "and there is not enough convincing evidence" that the citizens have been the *jataks* or have helped the *hajduks* "in their evil intentions". In that case, they will be punished with "up to twenty-five sticks. That way, the *jataks* will betray the *hajduks* under torture. If they don't speak about the *hajduks* even under beatings, the jail chief must "bring to the court a description of the suspects shown against them and the investigation". [27]

In addition to punishing proven and potential *jataks*, the district chief had the authority to punish those who did not comply with his orders issued for the purpose of catching the *hajduks* with twenty-five to thirty-five lashes. The Law stipulated (Article 7) that all damage caused by the *hajduks* should be paid from the property of "captured or not caught, but certified *hajduks* and *jataks*". The most severe measure that had the most far-reaching consequences is provided for in Article 8 of the Law. This provision stipulates that regardless of whether the families of the *hajduks* and the *jataks* have real estate, they must be deported far from the border of Serbia into the country's interior. [27]

The amendment to the Užice Law of 9 February 1850 mitigated the strict sanctions against the *hajduks* and the *jataks*, provided by the Užice Law for minors. The Soviet made a Decision at the proposal of the Ministry of Justice, and the Count approved. The Decision stipulated that juveniles over sixteen who are the *hajduks* and the *jataks* will be punished in the following way. "A male *hajduk* or *jatak* will be hit with a whip from six to twenty times, and a female *hajduk* or *jatak* with a whip from fifty to seventy blows provided that minors, according to their bodily constitution, can endure this punishment. If they can't, their sentence will be changed to six to nine years imprisonment". [28 p254-256] Minors younger than sixteen who had been the *hajduks* or the *jataks* are threatened with corporal punishment. The Decision stipulated that they would be punished with sticks or whips according to their physical constitution. If they were physically weak for such a sanction, the Decision on Amendments to the

⁷ Its application was briefly suspended, and the Criminal Code mitigated its effect on the Principality of Serbia.

Law on the *hajduks* provided a substitution to a prison sentence of one to three years as punishment.

When it comes to acts of helping the *hajduks*, consideration of their position is further complicated by the fact that not all the *jataks* were the “eyes and ears of the *hajduks*”. In addition to those *jataks* who willingly and out of their interest helped bandits, some *jataks* could not make a different choice without risking their own lives and property destruction. We can see those who assisted the *hajduks* willingly by hiding their booty, covering their tracks during the chase, taking care of the *hajduks*, encouraging them to commit some crimes, and sharing the loot with them. On the other hand, we can see those who had been the *jataks* unwillingly acquired such status only due to unfortunate circumstances, i.e. because they failed to adequately hide from the *hajduks* who then forced them to do such things for them.

So, those who had been *jataks* unwillingly are all those citizens who were forced by the *hajduks* to host them, serve them dinner, or hide their loot. Between the obligation to report the *hajduks*' visits to the authorities (which would undoubtedly result in revenge) and keeping silent about everything that happened in connection with the *hajduks*, citizens most often chose to remain silent in order to protect their own lives and the lives of many household members. The State, which punished them for not reporting the visits of the *hajduks*, was unable to provide them with any protection. After reporting the *hajduks*, they were left at their mercy. According to all of the above, the position of those who had been *jataks* unwillingly was unenviable.

Conclusion

The magnitude of the problem of the *hajdučija* directly affected the nature of the fight against this phenomenon. The young and poorly organized Serbian State throughout the 19th century, especially in the first half of the century, had no response to the crimes of the *hajduks*. It was powerless. The State tried to suppress the act of helping the *hajduks* by Law in all available ways. This helping, according to the understanding of many, was the base of the *hajduk* problem. The analyzed measures against the *jataks* and the *hajduks* show that the Law was often on the back burner. All available means were used in that fight. State retaliation and intimidation of the population were the primary modus operandi. Serbian authorities in that period had continuity in their merciless attitude towards bandits and their helpers (*hajduks* and *jataks*). They were often treated worse than the *hajduks* treated their victims. Since the authorities failed to deal with the *hajduks*, they pointed the blade at the *jataks* and the families of the *hajduks*. Citizens lived in complete fear of bandits and their crimes, but also of the State. The population feared that the authorities would find out about the unexpected visits of the *hajduks*, which could not and should not be avoided. Instead of punishing the real criminals, very often innocent inhabitants of the villages, where the *hajduks* operated, were sanctioned. In many cases, the *jataks* were scared to report unannounced visits by the *hajduks* to the authorities.

The measures against the *hajduks* were unsystematic, unjust, and unjustified. The competent principalities and courts did not want to separate the real *jataks* who

aided and abetted the *hajduks* to commit crimes from the *jataks* who that did unwillingly, who themselves were victims of the *hajduks*. On the contrary, sanctions were applied to all residents who helped the *hajduks* in any way. The combination of laws and concrete measures, excessive cruelty and intimidation of the population is a vivid indicator of young state building institutions under challenging conditions.

Residents of Serbian villages in the 19th century were in a difficult position. On the one hand, they were pressured by the local and central authorities not to help the *hajduks* in any way. On the other side were the *hajduks*. They did not even ask the *jataks* if they wanted to help them but took what they wanted. At the same time, they threatened the *jataks* that they would liquidate them and destroy their property if they reported them to the relevant authorities. Due to these two fundamentally different natures of situation in which *jataks* were, we have divided the *jataks* into two categories—the first one in which there were *jataks* who willingly helped the *hajduks* due to their interests. And the second one, in which there were the *jataks* who acted that way unwillingly. The *jataks* from the second category were assisting *hajduks* to save their lives and property. In order to keep their bare existence, they were forced to provide the *hajduks* with everything that was asked of them.

From the testimony of Jovan J. from Brezova, we can see that he was more a hostage and victim of the *hajduks* rather than a helper. Jovan J. was brought to the Court and punished with 50 strokes of the cane. It was because he did not report that the *hajduks* stopped by his place once and that he served them dinner at their request. [29, 8 p89-92]. Other cases show that the *hajduks* came to the *jataks*' house unannounced and demanded dinner, which they received.⁸ The *jataks* who were physically harassed by the *hajduks* during their visits were also punished. Jovan Zarić from the village of Dobroselica was twice visited by the *hajduks* and threatened with liquidating his six children and fifty cattle if he reported their visit to the authorities. During those visits, one of the *hajduks* made him save a small rifle for him and hit him in the head. Despite everything, Zarić was punished with 40 lashes. [31]

The (il)legal overthrow of the government on the *jataks* had only one goal - the complete neutralization of the *hajduks*. In fulfilling that goal, the *jataks* were a kind of collateral damage. That was the only reason why the *jataks* of the *hajduks* were treated in the way mentioned above. "The first Serbian trained policeman" - Tasa Milenković summed up the reason for this kind of treatment by the competent authorities in one thought: "First of all, if the people don't want to help, if they there is a lack of their help, the robbers can't be destroyed". [32 p172] Confiscating the property of a *hajduk* family is one of the more essential and complex measures that were indirectly aimed at the *jataks* and directly at the *hajduks*. The authorities confiscated all of the *hajduk*'s property to put pressure on the *hajduk* and punish his family for possibly hiding them. Many *hajduk* families were ruined in this way. After confiscating their property, they

⁸ This is why Radovan Đuričić was prosecuted. He was accused of serving the *hajduks* dinner when they came to his house uninvited. Radovan was saved thanks to the testimony of his wife, who claimed that it was actually his brother Andrija who served the dinner. We did not find any sources that would testify about Andrija's fate in connection with the mentioned event [30]

would be resettled in other, mostly more passive parts of the country. Without essential means of living, the *hajduk* families looked for salvation in begging and wage labour. [9 p36] The “Act on Substitution of Corporal Punishment” from 1853 is significant for the *jataks*, who were mostly punished by corporal punishment. Due to severe corporal punishment often made prisoners disabled or even cost them their lives, this Law provided for the possibility of replacing such punishment with imprisonment for weak or sick prisoners. [33 p28]

Rezime

U prvoj polovini 19. veka mlada srpska država je postavljala temelje savremene državnosti. Decenije ustaničke države obeležile su borbe za potpuno oslobođenje od Turaka, kao i egzistencija velikog broja dobro organizovanih razbojnika – hajduka. U istoriografiji su zabeležene dve kategorije hajduka: 1. prva u koju su spadali borci protiv Osmanlija, koji nisu u fokusu ovog rada; 2. Dok drugu kategoriju čine razbojnici, čijem suzbijanju i sankcionisanju je posvećen ovaj članak. Rad se odnosi na represiju države protiv najvažnijeg faktora za hajdučku otpornost – njihovih pomagača koji su nazvani jatacima. Narodna izreka „bez jataka nema ni hajduka“ uvodi nas u taj problem. Jataci *su conditio sine qua non* hajdučije. Bez njihove pomoći i podrške, razbojnici ne bi mogli da decenijama odolevaju vlastima. Ta činjenica otvorila je nekoliko problema: Prvi je potreba za izrazito represivnim merama protiv jataka, drugi problem je postavljanje pitanja opravdanosti drakonskih mera protiv stanovnika koji često nisu ni smeli da odbiju pružanje pomoći hajducima. Pored jataka koji su svojevolski i sa umišljajem pomagali i podstrekavali hajduke na zločine iz određenog računa, sankcionisani su i jataci koji su mogli da odaberu da pomognu hajducima ili da, u suprotnom postanu njihove žrtve. Brutalno kažnjavanje „neželjenih jataka“ od strane vlasti, samo zarad generalne prevencije, otvorilo je pitanje srazmernosti, humanosti i smislenosti, a na kraju i opravdanosti takvih mera. Jedan od problema koji se nadovezuje na prethodne je i nerazvijenost pravosudnog i upravnog aparata koji je često odstupao od načela legalnosti i zakonitosti prilikom procesuiranja i sankcionisanja hajduka i jataka. Međutim, nekolicina pravnih izvora hajduke i jatake reguliše kao jedinstvenu pravnu kategoriju - identičnim sankcijama, što u formalnopravnom smislu *opravdava* i pojašnjava drakonsku kaznenu politiku prema pomagačima hajduka. Iz analize mera države protiv jataka uočavamo da se one teško mogu povezati u logičnu celinu, odnosno da ih je gotovo nemoguće sistematizovati. Pravni izvori i postupanje državnog aparata nisu sinhronizovani, niti mere prate uzlaznu ili ni silaznu putanju intenziteta državne represije. Primetno je i to da je kaznena politika konstantno favorizovala koncept generalne prevencije na uštrb specijalne prevencije, što je sa aspekta savremenog krivičnog i penalnog prava ravno državnoj odmazdi.

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