

УДК 347.627.2(497.1)''194/195''
316.662-055.2(497.1)''194/195''
305-055.2:34

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Оригиналан научан рад
Примљен: 14.11.2015.
Прихваћен: 28.11.2015.

Soviet Model for Yugoslav Post-War Legal Transformation: Divorce Panic and Specialist Debate

Abstract: This paper explores the Yugoslav legal transformation and the specialist debate regarding divorce following the Second World War. Yugoslav post-war legal transformations were deeply influenced by the Soviet model, and by placing the issue of divorce at the fore, the paper examines how and which Soviet models were transferred. The focus of the analysis will be two crucial and interconnected problems regarding divorce practice: the enforcement of alimony payments and the panic over rising divorce rates. The paper argues that new post-war legislation was a progressive force that replaced very old legal codes and challenged well-established cultural practices. Resistance to new divorce practice was widespread, while powerlessness in ensuring alimony payments and the protection of dependants was one of the first failures of the Party's post-war gender project.

Key words: Yugoslavia, Soviet Union, Divorce, Moral panic, Transnational influences, cultural norms

In August 1951, a woman with the initials M.N. decided to ask the AFŽ's¹ legal advice office if her "friend" had a right to financial support for her child. It was one of numerous alimony cases set before the AFŽ, but this one was somewhat specific, published by the AFŽ's central magazine. M.N.'s "friend" had a five-year-old child born out of wedlock, with a married man who had three children with his wife. The man did not offer any financial support, and bullied his ex-lover, threatening to refuse her financial support even if she sued him. The "friend" was afraid that she could be punished by the court for having an affair and a child with a married man,

¹ The Communist Party's Women Section was called the Antifascist Women's Front. The usual abbreviation accepted in the scholarship is the AFŽ, to follow the original Yugoslav abbreviation, and for easier referencing of the archival material.

citing this as one reason why she had not acted earlier. Finally, “the friend” had the courage to ask the AFŽ if she could be punished for the affair, and if she should approach the court demanding alimony. The legal advice was in the woman’s favour. The office assured M.N. that the friend had a good chance of receiving alimony, and that no negative consequences could come out of the affair. Furthermore, the office was certain that the man had tried to scare his ex-lover just to avoid taking financial responsibility.²

This case epitomises some of the crucial aspects of the Yugoslav post-war legal transformation based on the Soviet model. It uncovers the struggle between old societal patriarchal norms and new legislation that had abolished double standards regarding sexual morality. The fear that M.N. (or her friend) had of being ostracised due to an extramarital affair and a child was strong enough to prevent her from claiming her guaranteed legal rights. The power of cultural patterns and existing gender relations, over official ideology and policies, explains why M.N. still had doubts: first over a child born out of the wedlock considered illegitimate by pre-war society; then, an affair with a married man, for which a woman was usually considered the culprit; and finally, fears of being bullied by her ex-lover. However, the very fact that she asked for help after all illuminates the dynamics of the changes and the slow acceptance of new legal practices in which the issue of alimony payments was tightly intertwined with new divorce codes.

This article, therefore, aims to look at the Yugoslav legal transformation, and the specialist debate about divorce, from a transnational historical perspective. The Soviet model deeply influenced Yugoslav post-war legal transformations, and by placing the issue of divorce at the fore, I will explore how and which Soviet models were transferred. At the same time, it is crucial to underline the agency of the Yugoslav periphery, which was active in interpreting Soviet models and applying them in practice. It opens up a broader understanding of the crucial links, networks, and actors. The focus of the analysis will be two crucial and interconnected problems regarding divorce practice: the enforcement of alimony payments and the panic over rising divorce rates. Both issues reveal that the Communist Party’s reproductive policies were the main discursive field.

Post-war legal transformation

The new Yugoslav post-war leadership demonstrated a firm belief in the ultimate power of the law and top-level decision-making. For the most part, initiatives came from Josip Broz Tito and his politburo, or from lower-Party levels about less important issues. In terms of decision-making process, Yugoslavia was no different

² „Pravno savetovalište”, *Žena danas*, 86, 1951, str. 6.

from the Soviet Union. Due to its structural organisation, Yugoslavia implemented Stalinist gender policies in a similar way to other Eastern European countries.³ The Soviet Union played a decisive role in framing post-war reproductive policies, which radically affected various domains – from labour policy to family relations. Soviet ideas were also pivotal to Yugoslav communists before, during, and after the war, and these ideas provided a framework upon which a unique Yugoslav experience was formed. As early as 1940, Vida Tomšič, one of the leading women in the Yugoslav Communist Party, drafted a gender equality programme entirely based on Stalinist models. Numerous Soviet texts both translated and interpreted in Yugoslav communist media, during and after the war, provided further guidelines on how this gender equality could be achieved.⁴ Furthermore, many important post-war Yugoslav communists had learned how to apply Stalinist ideals in the 1930s, while studying in Moscow – for example, Spasenija Babović, who received her Marxist training there. She later became a war hero, AFŽ president, and a government minister. Together with other trainees, including Zdenka Kidrič, Babović survived the war and was able to apply her experience from Moscow to many important duties within the Party and the state apparatus.⁵ It is therefore crucial to outline the fundamentals of Stalinist gender policies from their origins in the Yugoslav communists' education in Moscow.

Scholars have recently revisited Stalinist gender policies.⁶ The shift from the social history of women to approaches that emphasise gender as an analytic category has allowed us to re-examine several important paradigms that dominated the field. One such paradigm, influential in studies of Eastern Europe and Yugoslavia too, is that with Stalin's ascent to power, Soviet society underwent a great 'retreat' in terms of gender policies.⁷ This idea was suggested soon after the Second World War by

³ Very insightful study on Poland by Fidelis provides an analysis of the dynamics of implementation of gender policies and Stalinism: Fidelis, Malgorzata, *Women, Communism, and Industrialization in Postwar Poland*, Cambridge; New York 2010. (further: Fidelis, M., *Women, Communism...*)

⁴ Archive of Yugoslavia (Arhiv Jugoslavije, AJ), Collection Antifascist Women's Front (Antifašistički front žena, AFŽ, 141), box 10 (10), Vida Tomšič, *Referat na V Zemaljskoj konferenciji*, 1940. (further: AJ, 141, 10, Tomšič, *Referat...*)

⁵ The importance of Moscow for Yugoslavian revolutionaries is illustrated by Spasenija Babović's decision to send her three-year-old son there. He returned to Yugoslavia only eleven years later, at the end of the war. Stanko Mladenović, *Spasenija Cana Babović*, *Revolucionari Šumadije*, Beograd; Kragujevac 1980.

⁶ Wood, Elizabeth A., *The Baba and the Comrade: Gender and Politics in Revolutionary Russia*, Bloomington 1997. (further: Wood, E. A., *The Baba and the Comrade...*); Hoffmann, David L., *Stalinist Values: The Cultural Norms of Soviet Modernity, 1917–1941*, Ithaca 2003. (further: Hoffmann, D. L., *Stalinist Values...*); Attwood, Lynne, *Gender and Housing in Soviet Russia: Private Life in a Public Space*, Manchester 2010; Shulman, Elena, *Stalinism on the Frontier of Empire: Women and State Formation in the Soviet Far East*, Cambridge 2012. (further: Shulman, E., *Stalinism on the Frontier...*)

⁷ Lapidus, Gail Warshofsky, *Women in Soviet Society: Equality, Development, and Social Change*, Berkeley 1978. (further: Lapidus, G. W., *Women in Soviet Society...*); Goldman, Wendy Z., *Women, the State, and Revolution: Soviet Family Policy and Social Life, 1917–1936*, Cambridge; New York

Nicholas Timasheff,⁸ picked up by historians, and is still the subject of on-going scholarly debate. The paradigm was mostly advocated by social historians, including notable authors such as Wendy Goldman and Susan E. Reid. Goldman explored emancipatory Soviet legislature after the revolution, consisting of the legalisation of abortion, the acceptance of previously illegitimate children and their rights, as well as easier procedures for divorce and the equalization of women in family relations in both urban and rural areas. Alongside the new legal structures, many activists imagined how a new “everyday life” (*новый быт*) would replace the old one. Spouses were expected to be truly equal and to become active participants in the socialist project. The idea was that socialist gender relations would enter households, which also meant that domestic labour would be transferred to the public sphere. Goldman showed that reproductive policies were based on four principles: free union, women’s emancipation through wage labour, the socialization of housework, and the withering away of the bourgeois family. Through extensive research, she argued that none of these policies lived up to their promises: the idea of free union was never established, especially in terms of men’s responsibility and respect for women’s activities; women’s participation in wage labour in the 1920s was not notable; housework was never socialised to the promised extent; and the institution of the family survived intact.⁹

Goldman’s main argument for a ‘retreat’ claims that, with Stalin’s ascent to power and the advent of industrialisation, the Party’s policy towards women, family, and reproduction changed dramatically compared to a revolutionary moment. Family life was promoted once again; women were encouraged to be mothers above everything else, sexual freedoms were restrained, and eventually abortion was banned. Normative differentiations between masculinity and femininity sharpened, while the government applied harsh measures against prostitution and sexual behaviours considered deviant. Divorces became harder to obtain.¹⁰ In explaining why such a retreat occurred, historians such as Goldman and Reid mention Stalinist political requirements and the consolidation of a political system, along with an extremely high rate of abortions and a low birth rate. This was followed by the massive industrialisation brought about by the First Five-Year Plan, and the inability of the state to provide the promised services

1993. (further: Goldman, W. Z., *Women, the State...*); Reid, Susan E., „All Stalin’s Women: Gender and Power in Soviet Art of the 1930s”, *Slavic Review* 57, 1, 1998, pp. 133–173. (further: Reid, S. E., „All Stalin’s Women...”); For the Yugoslav case see: Antić, Milica G.; Vidmar, Ksenija H., „The Construction of Women’s Identity in Socialism: The Case of Slovenia”, in *Gender and Identity: Theories from And/or on Southeastern Europe*, ed. Jelisaveta Blagojević, Katerina Kolozova, and Svetlana Slapsak, Belgrade 2006.

⁸ The book was first published in 1946: Timasheff, Nicholas S., *The Great Retreat; the Growth and Decline of Communism in Russia*, New York 1972.

⁹ Goldman, W. Z., *Women, the State...*; Wendy Z Goldman, *Women at the Gates: Gender and Industry in Stalin’s Russia*, Cambridge; New York 2002.

¹⁰ These policies have been widely researched and are well documented. See: Goldman, W. Z., *Women, the State...*; Lapidus, G. W., *Women in Soviet Society...*, pp. 97–113.

that were supposed to replace the bourgeois family. Furthermore, scholarly debate from the 1920s, and pressure “from below” by women seeking stability regarding divorce policies and the family, also contributed to the retreat.¹¹

Nevertheless, several works, most notably by Elizabeth A. Wood and David L. Hoffmann, have challenged this idea of a retreat.¹² Wood brings the idea of gender as an organising principle of Soviet society to the fore, arguing that the Party always reserved a special role for women as mothers of the republic; besides their joining the ranks of productive labour and supporting the Red Army during the civil war, as she writes, “they were to tend to the Red Army soldiers with caring hands and kind hearts.”¹³ In her view, the idea of a woman whose primary role is motherhood and care was not a purely Stalinist invention or a Stalinist return to pre-revolutionary traditions. Only a small minority of Soviet leaders had an interest in gender issues, and these leaders faced resistance when they attempted to change old prejudices. Furthermore, opposition to progressive actions concerning women was not the reserve of ordinary workers or peasants, but found among the Party leaders as well. Wood analyses the anxieties created by new marriage and family policies, showing that many Bolsheviks were not clear on how the new relations would emerge.¹⁴

Concerning Stalinist pro-natalist policies, Wood argues that, mostly due to economic problems, policy makers were not troubled by human losses in the wars; thus pro-natalist policies did not emerge as quickly as in many other European countries.¹⁵ Building on this view, David L. Hoffmann argues that Stalinist policies toward reproduction did not result in retraditionalization. Although the Stalinist state did favour the family as a unit for increasing the birth rate and producing healthy citizens, this was a ‘modernist’ idea alien to the Tsarist regime but common across Western Europe in the twentieth century. One significant difference in Stalin’s period was that parental obligations were enforced, and norms for sexual behaviour and family organisation officially prescribed. The regime no longer permitted scholarly debate or public discussion about sex, while sexual behaviour was prescribed by police measures rather than by education. However, the family was not supposed to be private. Instead, the Party saw the family as an instrument for instilling collectivist values in children and improving social discipline. Stalinist family policies were thus

¹¹ Goldman, W. Z., *Women, the State...*; Reid, S. E., „All Stalin’s Women...”.

¹² Wood, E. A., *The Baba and the Comrade...*; Hoffmann, D. L., *Stalinist Values...*; Elena Shulman also challenges this paradigm and illustrates the new opportunities brought to women in the Soviet Far East, see: Shulman, E., *Stalinism on the Frontier...*

¹³ Wood, E. A., *The Baba and the Comrade...*, p. 4.

¹⁴ Wood, E. A., *The Baba and the Comrade...*, pp. 106–111; Hoffmann also argues that top Communist male officials were never very enthusiastic regarding gender equality. Hoffmann, David L., *Cultivating the Masses: Modern State Practices and Soviet Socialism, 1914–1939*, Ithaca, New York 2011, p. 89. (further: Hoffmann, D. L., *Cultivating the Masses...*)

¹⁵ Wood, E. A., *The Baba and the Comrade...*, p. 107.

never intended to return society to pre-revolutionary family models. In Stalinist terms, the Soviet family was not the property of a family patriarch, or protected from state intervention.¹⁶ As Hoffmann shows, new policies were not driven by public opinion, although many were in favour of these policies, but instead by the state's interest in population growth and social control. Although the Soviet case has its specificities, Hoffmann shows that it was part of a broader European trend towards state management of reproduction in which the state's desire to increase the population was favoured over individual reproductive rights.¹⁷ Both Wood and Hoffmann's arguments are important as they show that, even if Stalinist policies constituted a "retreat" from some revolutionary ideas of the 1920s, they did not need to be "conservative" either in intention or effect.

To move the discussion beyond the great 'retreat' paradigm, we need to engage in an analysis of the radicalism of the Stalinist policies which, among other things, assigned a new role for the state and the family.¹⁸ The programme set by the Yugoslav communist party for the "women's question" in 1940 changed only slightly over the following few decades. Building upon Soviet gender policies of the 1930s, Yugoslav communists promised political equality, equal pay for equal work, and the promotion of motherhood through various state-financed services such as kindergartens, crèches, and maternity units.¹⁹ They fully accepted Stalinist policies regarding the family, dismissing any notion that the family was withering away as an institution. They expected a new socialist family and family relations to emerge, with the legal help of the state and the Party. By the time the war ended, Yugoslav communists were ready to put Stalinist terms in practice.²⁰

After the war, Yugoslav communists intended to rewrite all pre-war legislation, and the fastest way to achieve this was to translate Soviet laws. The Soviet Constitution of 1936 was the direct template for the Yugoslav Constitution of 1946. Out of 30 articles that defined the new social order and citizens' rights, 60% were direct translations, while an additional 20% were based on other Soviet legislation. Only 20% had no connection with Soviet legislation, and reflected Yugoslav conditions.²¹ This

¹⁶ Hoffmann, D. L., *Cultivating the Masses...*, p. 89.

¹⁷ See: Hoffmann, David L., „Mothers in the Motherland: Stalinist Pronatalism in Its Pan-European Context”, *Journal of Social History*, 34, 1, 2000, pp. 35–54; or: Hoffmann, D. L., *Cultivating the Masses...*, pp. 87–117.

¹⁸ For the well-researched Polish case, see: Fidelis, M., *Women, Communism...*

¹⁹ AJ, 141, 10, Tomšić, *Referat...*

²⁰ On the Yugoslavian understanding of Soviet family relations and gender policies during the war, see „Porodica je kičma Sovjetskog Saveza”, *Žena u borbi*, 8, April 1944, p. 12. (Further: „Porodica je kičma...”)

²¹ Detailed comparative analysis of the Yugoslav-Soviet case has been undertaken by Jovanović, Miroslav, „Preslikana ili samobitna društvena izgradnja: komparativna analiza ustava FNRJ (1946) i „Staljinškog” ustava SSSR-a (1936)”, *Tokovi istorije*, 1–2, 2008, str. 280–290. (further: Jovanović, M., „Preslikana ili samobitna...”)

heavy reliance on Soviet Constitution was due to three factors: Yugoslav communists were educated in the Soviet Union during the 1930s and many truly believed that the Soviet Constitution was the most progressive piece of legislation ever written;²² the Stalinist 1936 Constitution provided a tool for making very radical changes to pre-war Yugoslav society that Yugoslav communists desperately sought; and finally, there was no alternative to the Soviet model, nor did Yugoslav communists desire such an alternative at the time or attempted any experiments.

This particular transfer from the Soviet centre to the Yugoslav periphery was crucial in the combination of factors that determined Yugoslav policies towards gender and family relations. Yugoslav policies were constructed in this circulation of ideas between different places and regions.²³ For example, constitutional articles that were Soviet replicas included those regarding marriage, the equality of women, and the protection of motherhood and children. Article 24 of the Yugoslav Constitution, which defined women's rights, was a direct translation of Article 122 of the Soviet Constitution.²⁴ It guaranteed the political, economic, and social equality of women and men. For the first time in Yugoslav legislation, women were granted the right to vote, to attend all schools, and to work without discrimination. The Constitution also promised ultimate care for mothers and workers, especially during pregnancy. The same article also specified that the state was obliged to introduce services such as kindergartens, nurseries, and maternity wards.²⁵

Direct translation of the crucial parts of the Soviet Constitution also meant that Yugoslavia embraced Stalinist reproductive policy, making Soviet influences visible long after the conflict between the two countries in 1948. However, at the time in which Soviet norms were becoming part of Yugoslav legislature, they were a progressive force that worked to change very conservative legislation, inherited from the 19th century. For example, in Serbia, women's positions were sanctioned by the Civil Law of 1844. The old law practically stated that a woman was the private property of her husband. He was declared to be the head of the family who would thus represent a woman and decide where she would live. She was obliged to obey his orders, to serve him, to take care of the children and the house. Women were not allowed to inherit property, and even investigations of paternity were specifically forbidden. In article 920, women were equalised with minors, together with "persons without

²² This stance was expressed when the Soviets adopted 1936 Constitution, and repeated numerous times, both before and during the war. See, for example: „Novi Sovjetski ustav”, *Proleter*, 1, January 1937, crp. 1; „Plodovi Oktobra”, *Žena u borbi*, 5–6, November 1943, crp. 14–15.

²³ Once again, during the transfer the periphery was not a passive recipient. For more theoretical observations, see: Bayly, C. A. et al., „AHR Conversation: On Transnational History”, *The American Historical Review*, 111, 5, December 2006, pp. 1441–1464.

²⁴ Jovanović, M., „Preslikana ili samobitna...”

²⁵ Prokop, Ana, *Ravnopravnost žene, brak i porodica : po Ustavu Federativne Narodne Republike Jugoslavije*, Zagreb 1946.

mind, court declared spendthrifts, scoundrels, and indebted bankrupt persons".²⁶ In the rest of the country, Austrian civil law was used for populations that belonged to the Habsburg Empire before 1919, and Sharia law for the Muslim populations. Austrian civil law was even older and served as a model for Serbian civil law, but had slightly more favourable provisions for women regarding inheritance, marital rights, and labour protection. Compared to these laws, Soviet legislation presented the most radical change, setting a huge challenge for Yugoslav communists to implement it in practice.²⁷

A new law on marital relations was introduced in 1946, shortly after the Constitution. Marriage between a man and a woman was declared the foundation of family, under the protection of the state. The law proclaimed the equality of men and women in marriage, made civil marriage mandatory and the only legitimate kind, while cases of a marital nature were transferred from religious to state courts. Double standards regarding morality became illegal, stating that what was allowed for men was allowed for women as well. The only difference was that a man's family name was favoured, allowing women to keep their own last name, but not allowing a man to take a woman's last name. Also, if a woman decided to keep her last name, children would automatically take the husband's family name.²⁸ Sexual assault in marriage was nevertheless not recognised as a criminal offense. Moreover, in later Penal code it was specifically stated that sexual assault related to cases in which people were not married.²⁹

Properties and incomes earned during marriage were considered joint, regardless of whether a woman was employed or not. Domestic chores were counted as income, as were all other activities that helped to increase the value of jointly-owned property.³⁰ Many prominent communists applauded this as a crucial step in bringing gender equality to Yugoslavia. However, it was up to the court's discretion to determine the value of a woman's contribution to the household, and to enforce a division of the household. As noted by Lidia Sklevicky, legislators wanted to protect unemployed women, considering it natural that more women would stay at home in

²⁶ Sklevicky, Lydia, *Konji, žene, ratovi*, Zagreb 1996. str. 90. (further: Sklevicky, L., *Konji, žene...*); Božinović, Neda, *Žensko pitanje u Srbiji u XIX i XX veku*, Belgrade 1996, str. 29.

²⁷ Kaser, Karl, *Porodica i srodstvo na Balkanu: analiza jedne kulture koja nestaje*, Beograd 2002; As Erlich observed, even in old Austrian parts where women could inherit property, the practice was that the daughter resigns her portion of the inheritance. Erlich, Vera St., *Family in Transition: A Study of 300 Yugoslav Villages*, Princeton 1966, p. 214.

²⁸ „Osnovni zakon o braku”, *Službeni list Federativne Narodne Republike Jugoslavije*, 29, 9 April 1946. (further: „Osnovni zakon o braku”); Sklevicky, L., *Konji, žene...*, str. 90.

²⁹ „Krivični zakonik”, *Službeni list Federativne Narodne Republike Jugoslavije*, 13, 9 March 1951. (further: „Krivični zakonik”)

³⁰ Gudac-Dodić, Vera, „Divorce in Serbia”, *Tokovi istorije*, 1–2, 2008, p. 138. (further: Gudac-Dodić, V., „Divorce in Serbia”)

the “domestic sphere” to support their employed husbands.³¹ The rationale was that, in the case of divorce, woman would get some property or money, while a husband would pay alimony for her and the children.³²

Before the war, the ecclesiastical courts granted divorce. Divorce was not easy to obtain, making changes brought by new legislation fundamental. Authors generally argue that the most common case for divorce in interwar Yugoslavia was the inability of a couple to have children.³³ However, there is still a gap in the scholarship regarding the comparison of divorce cases in practice across different legislative traditions in interwar Yugoslavia.³⁴ The new legislation introduced after the war simplified the divorce procedure, and permitted divorce if “marital relations are so impaired that living together has become unbearable for the spouse.”³⁵ Divorce was granted for numerous reasons, including abuse, threat, mental illness, adultery, criminal offense against the state, etc. The court had to decide who was “guilty” for divorce, and a person who was not “guilty” was eligible for getting gifts back, while joint property was divided according to contributions made.³⁶

The divorce legislation was inspired by the Soviet Union, but introduced in a more lenient form. In the 1930s, the Soviet Union introduced fees and divorce was generally harder to obtain than in the 1920s. Divorce was free of charge in Yugoslavia, and divorce was not noted in people’s ID cards, as it was in the Soviet Union. Penalties for not paying alimony were also milder compared to the Soviet Union, where a man could be imprisoned for up to two years.³⁷ The Yugoslav penal code stated that a person who avoided paying alimony has to be punished with a monetary fine or one year imprisonment.³⁸ It is yet to be shown how many men were actually imprisoned, as from many reports it seems that a good number avoided paying alimony, justifying their actions by claiming poverty.³⁹

Nevertheless, this legislation promised to bring about huge changes, particularly in the countryside, where women were not only unprotected by the law, but also subject to immense social shame upon divorce. The implementation of new legislation in the countryside quickly showed that it was very hard for a woman to get her domestic chores recognised as valuable labour, to get the dowry back, gain financial support,

³¹ Sklevicky, L., *Konji, žene...*, str. 91.

³² Gudac-Dodić, V., „Divorce in Serbia”, p. 139.

³³ See: Gudac-Dodić, V., „Divorce in Serbia“

³⁴ For an overview of different legal practices, see Cvejić-Jančić, Olga, „Brak i razvod između prošlosti i budućnosti”, *Zbornik radova Pravnog fakulteta*, 43, 2, 2009, str. 63–88; Udjejna Habul, „Institut razvoda braka u historiji Bosne i Hercegovine”, *Godišnjak Fakulteta političkih nauka*, 1, 2006, str. 457–471.

³⁵ Citation from the law, provided by Gudac-Dodić, V., „Divorce in Serbia”, p. 138.

³⁶ „Osnovni zakon o braku”.

³⁷ Cf: Goldman, W. Z., *Women, the State...*, p. 332.

³⁸ „Krivični zakonik“

³⁹ AJ, 141, 4, Imovinski Odnosi U Braku – NR Srbija, 1953.

and see a fair division of property. Many women who endured domestic violence were afraid to initiate divorce. In cases brought to court, men would usually force a woman to leave, and refuse to return the dowry and to split the property. A woman's situation could become even more complicated if her parents did not allow her to return to their home, which was often the case because of the associated shame. Additionally, it was not uncommon for a father's family to try to gain custody of the children, to avoid paying alimony and to utilise them as a workforce.⁴⁰ Courts would typically decide in a woman's favour, but enforcing the decision was difficult. Some women who brought their case to court learned that the land was owned by the oldest family member, and not by their husbands, leaving them without any support.⁴¹ Another problem was that many women did not try to exercise their rights, probably aware that due to the social structure in the countryside, a divorced woman would have a hard time surviving even if she received some arable plot.⁴² AFŽ activists could only report on the struggles of divorced women to find a new home, and start a new life, demonstrating that the legislation was powerless to change social practices.⁴³

In 1951, the AFŽ organised a legal aid office in Belgrade, with alimony cases dominant. This was dictated by the situation such that even in the state capital, enforcement of alimony payments was very difficult.⁴⁴ The practice explored by historian Vera Gudac-Dodić shows that, in the majority of cases, women won the right to alimony and custody over children, but it was particularly difficult to force men to pay alimony. She shows that, even in the 1960s, 65% of men did not pay alimony despite the court's decision to the contrary. Many did not pay due to unemployment or just because they were not asked to by other state institutions.⁴⁵ Courts were also able to decide how much a spouse was supposed to pay, making local differences

⁴⁰ This was a much older practice observed by ethnographers before the war: male children, considered to be valuable family assets, were not given up lightly by the father's family. See Lodge, Olive, *Peasant Life in Yugoslavia*, London 1942, p. 198; On the other hand, Bosa Cvetić has argued that there were a lot of female children who were not even registered as having been born, in order to exclude them from inheritance, demonstrating wider failures in brining socialist relations to the countryside. AJ, 141, 5, Cvetić, Bosa, *Žena na selu i njena društvena aktivnost*, 1953.

⁴¹ AJ, Socijalistički savez radnog naroda Jugoslavije (142), 90, Zapisnik sa sastanka Komisije za rad među ženama Saveznog odbora SSRNJ, 3 February 1955. (further: Zapisnik sa sastanka Komisije za rad među ženama...)

⁴² AJ, 141, 5, Božinović, Neda, Izveštaj o radu komisije za porodične odnose na selu, 1953. (further: Božinović, N., Izveštaj o radu...)

⁴³ Many women who had divorced remarried, often to another divorced person. Unfortunately it is impossible to obtain data from the countryside and the cities separately on this issue: *Statistički Godišnjak FNRJ 1955*, Beograd 1955, str. 78. (further: *Statistički Godišnjak...*)

⁴⁴ AJ, 141, 8, Stenografske beleške sastanka izvršnog odbora Centralnog odbora Antifašističkog fronta žena Jugoslavije, 2 February 1951.

⁴⁵ Gudac-Dodić, V., „Divorce in Serbia”, p. 140; Another problem was that divorced women did not have any rights with regard to the apartment that the family received from the state. The apartments were most often registered to men, and the legislation did not envision its being shared. Only in 1956

highly visible. Places that were more conservative usually had lower average alimonies, but also higher resistance from divorced men. As early as the beginning of the 1950s, enforcing alimony payments was so difficult that the AFŽ considered a more radical approach. A judge and a lawyer close to the AFŽ suggested changes in legislation that would include seizure of a husband's property, or that the courts rule on alimony based on the potential ability of a man to earn, and not on his actual salary.⁴⁶ These suggestions were not accepted, but they show the desperation of the new state when it came to bringing legislation into practice, and to overcoming cultural norms regarding divorce and parental responsibilities.

Divorce Anxiety

After transferring the Soviet legislation to Yugoslavia, Soviet ideas, practices, and institutions still had to undergo legitimization and domestication in their new surroundings.⁴⁷ The new legislation presented a significant change in Yugoslavia, while attempts to enforce it in practice brought a lot of anxiety, and initiated a debate about the institution of marriage and the family in general. Even during the war, the Party had reassured the population that the family was “the backbone” of the Soviet Union, and that it would be the same in new Yugoslavia.⁴⁸ This rhetoric was repeated after the war, but a lot of uncertainty in patriarchal settings was brought about by the official discourse that encouraged women to enter industry, and by the collectivisation of agriculture that promised broader social changes in the countryside. Once new laws were put into practice, divorce took the centre of the debate, both among the Party's cadres at closed meetings and in the press.

Since women were allowed to initiate divorce for the first time, any increase in the divorce rate provoked moral panic. From statistical data collected by the state, we see that the divorce rate did increase after the war, from 6,000 to 7,000 divorces in the entire country in the late 1930s to almost 25,000 in 1948.⁴⁹ However, more than actual increase of the divorce rate (which decreased regularly after its peak in 1948), the perception of a loosening of patriarchal norms in cities was crucial. By the 1930s,

did Tomšič bring this problem to public attention. Tomšič, Vida, „Da žena ne bude rob kuće”, *Žena u borbi*, 8, August 1956, str. 2.

⁴⁶ „Šta se vidi iz prakse dosuđivanja i plaćanja alimentacija”, *Žena danas*, 80, February 1951, str. 14.

⁴⁷ For more details on exploring the transfer of ideas within the transnational history paradigm, see: Mishkova, D., „Liberalism and Tradition in the Nineteenth-Century Balkans: Toward History and Methodology of Political Transfer”, *East European Politics & Societies*, 26, 4, 6 September 2012, pp. 668–692.

⁴⁸ “Porodica je kičma...”

⁴⁹ *Statistički Godišnjak...*, str. 67.

the divorce rate in Belgrade was twice as high as the national average,⁵⁰ while massive migration in post-war years added to established image of moral deterioration. Newly arrived inhabitants of the cities often struggled with the idea of a premarital love life or divorce. Warnings usually came from the lower Party rank and file, and from the police, while the top Yugoslav leadership was not particularly vocal on the issue. Many of them were divorced themselves, including Josip Broz Tito and Milovan Djilas. It was up to the AFŽ to tackle the issue of divorce by balancing the imagined binary model of modernity vs. backwardness, reflected by their own members.

Within the AFŽ there were at least two different views on how the state should deal with the increasing divorce rate. Among the top leadership, the dominant view was that divorce was not desirable, but that it was sometimes unavoidable and the best solution for spouses. Their main concerns were the potential impact on children, and whether a woman would be able to sustain herself. They never suggested stricter laws or punishments. Instead, Vida Tomšič, Bosa Cvetić, and Mitra Mitrović often used Marxist theory as a strategy for opposing those who were concerned about the divorce rate, and insisted on a Marxist approach in the education of both young people and adults. Often citing Engels, they also used Marxism to rebuke those who discriminated against divorced women, either in factories or in the countryside.⁵¹

Among the lower cadres, however, a significant number of people disapproved of divorce entirely, and wanted the government to do more regarding the divorce rate. Activists all over the country reported their concerns, while one AFŽ committee in Zagreb even suggested that the government should criminalize adultery, as a means to strengthen already-existing marriages. The committee stated that those who performed adultery „should feel fair retaliation from society,” describing divorce as a social evil that harms women and children.⁵² There were also calls to increase the legal marriage age, and to prohibit all extramarital relationships. The Central Committee of the AFŽ refused these suggestions, but while none of these ideas were implemented, they nevertheless show that many wanted the state to take a firmer stance.⁵³ The reason for these concerns among AFŽ activists was that significantly more men than women initiated divorce procedures, and they daily observed the inability of the courts to protect women.⁵⁴

⁵⁰ Gudac-Dodić, V., „Divorce in Serbia”, p. 141.

⁵¹ For example: Tomšič, Vida, „Uloga žena u socijalističkog izgradnji”, *Žena danas*, 93, March 1952, str. 1, 7.

⁵² AJ, 141, 4, Komisija za izmjenu nekih zakonskih propisa, Gradska organizacija Zagreb AFŽ, 1953.

⁵³ Božinović, N., Izveštaj o radu...; AJ, 142, 90, Zapisnik sa sastanka Komisije za žene pri Saveznom odboru SSRNJ, 22 May 1954. (further: Zapisnik sa sastanka...)

⁵⁴ AJ, 141, 35, Zapisnik sa sastanka okružnih tajnica AFŽ-a u Glavnom odboru AFŽ-a za Hrvatsku, 13 June 1946.

Fear for Children, or from Women's Emancipation?

Children were at the focus of the divorce debate, particularly among activists and in specialist circles, despite the fact that 58% of divorced people in 1953 had no children at all.⁵⁵ Nevertheless, the most dominant opinion was that children suffered because of divorce. As one report prepared for the AFŽ Congress explained, „those children suffer undeserved injustice; it does not solve the problem but increase crime rates and causes those children, in most cases, to become abnormal persons, harmful for society, or unhappy creatures.“⁵⁶ This was the predominant argument against divorce in Yugoslav socialism. Negative views of divorce were deeply rooted in society, but were also part of the overall discourse of specialists of many different fields, who used the term “deficient family” for those in which children lived with only one parent. This was conveniently used to explain the cause of a variety of social problems – prostitution, the youth crime rate, alcoholism, and poor grades in schools. The panic about divorce was closely connected to these issues.⁵⁷

The concern repeated in the press and in numerous forums was that with the supposed disintegration of the patriarchal family, the higher employment rate for women, and the higher divorce rate, more children would be neglected and fall prey to “negative influences”. This angst resembles debates in the Soviet Union of the late 1920s, when similar arguments were used to impose stricter laws regarding divorce. Similarly to Yugoslavia, it was rank and file women who opposed easier divorce practice, and called for greater responsibility towards children. As Goldman demonstrates, the negative impact of divorce on children was a recurrent theme, while many women supported stricter laws because they were concerned about survival and the feeding of these children, particularly in the countryside.⁵⁸

In Yugoslavia, many newly established societies that provided charity work for children also advocated for harsher state measures. They echoed the discontented voices of the AFŽ activists, who suggested the criminalisation of adultery and penalties for men. Some were concerned about children, but others were aware that even if a woman was employed, divorce could mean a significant drop in her standard of living. However, their initiatives were first rejected at the last AFŽ Congress in 1953, and then in the following years by the Committee for Women within the Socialist Alliance of the Working People. It was paradoxical situation in which lower-ranked women of the Party, and even non-Party women, asked for increased state interven-

⁵⁵ It also seems that many divorces occurred *because* the couple had no children. The data shows that 51% of marriages were dissolved after five or more years: *Statistički Godišnjak...*, str. 78.

⁵⁶ AJ, 141, 4, O radu među ženama na selu, 1953, 12.

⁵⁷ Savić, Branka, *Uloga porodice u vaspitanju dece*, Belgrade 1954; Milica Petrović, „Alkoholizam i porodica”, in *Alkoholizam i društvo: zbornik radova*, ed. Milorad Dragić et al., Belgrade 1961, str. 183–189.

⁵⁸ Goldman, W. Z., *Women, the State...*, p. 244.

tion and firmer rule, while the leading female communists tried to counter these ideas by calling for more Marxist education. Marxist education meant a simple acceptance of the new standards brought in by the communists. These standards were supposed to bring full equality and respect into marriage, after which the divorce rate would naturally decrease. Following this, Branka Savić rejected all suggestions for administrative measures, and urged societies for children not to pressurise local courts regarding divorce cases.⁵⁹ Contrary to the Soviet case, Savić, Vida Tomšič, and other notable communists in Yugoslavia were powerful enough within the state apparatus to prevent changes that would make the divorce procedure more complicated and expensive.

The panic over divorce in the early 1950s was widespread, but often behind the unease about the wellbeing of children there was more profound fear of women's emancipation. In the press, and according to internal reports about the general opinion, women were blamed for divorce more often, regardless of the courts' decision. Although the divorce rate was significantly higher than in pre-war times, demonstrating the deep social changes brought about by new legislation, the double standards were far from extinct. As Savić explained at one internal meeting, if a woman had an extra-marital affair she was labelled as a prostitute and could easily lose her children during the divorce process, while for many men such practices were overlooked.⁶⁰ If we return to M.N.'s case from the beginning of the article, her fear that she could be punished for having a child with a married man is also telling. As in any patriarchal society, women's chastity had to remain undisputed and women were blamed for any transgressions. Many men blamed women's work outside the home for the disintegration of family units, and such view could even be heard in factories and local Union meetings.⁶¹ Even local magazines for women disseminated texts arguing that it was up to a woman to protect her marriage, regardless of whether a husband cheated, beat her, or was addicted to alcohol.⁶²

As the panic grew, in 1953 Vida Tomšič warned the media from the top Party forum. At Fourth Plenum of the Party's Central Committee, she urged newspapers not to publish "reactionary stances". She argued that the high rate of crime among young people was not connected with divorce, and was not because "the communists allowed women to work outside the home". She said that the question of youth crime in the media was overblown by teachers and pedagogues, and warned them that the

⁵⁹ AJ, 142, 90, Zapisnik sa sastanka...

⁶⁰ AJ, 142, 90, Zapisnik sa sastanka Komisije za rad među ženama...

⁶¹ This was often reported in Slovenia. AJ, Savez ženskih društava Jugoslavije (354), 1, Zapisnik sa sastanka Upravnog odbora Ženskih društava Jugoslavije, 6 March 1954.

⁶² An activist and educator from Croatia, Zora Ruklić, was particularly prone blaming women for divorce, and in spreading divorce panic. See: Ruklić, Zora, „Skaldan brak i odgoj djece”, *Žena u borbi*, 1, January 1955, str. 9; Ruklić, Zora, „Žena kao majka i bračni drug”, *Žena u borbi*, 3, March 1955, str. 16–17.

communists would not allow the “return of women to the home and a subordinate position.” Tomšič explained that women’s participation in social and economic life was progressive, and that those who asked for different policies were simply under the heavy reactionary influence of the West. Her speech was also published in the most important Party journal *Komunist*, which gave it an official character.⁶³

Two years later Tomšič tackled the issue of divorce again, stating that divorce was often not a negative thing, but could be a positive solution for incompatible spouses. She fiercely criticised the existing double standards, where divorce was seen to be shameful for women but not men, or, vice versa, where adultery was acceptable for men but not women. She reminded people that double standards were outlawed, and although they still existed in practice this was unacceptable for a socialist country. She pointed to domestic violence, alcoholism, and inequality in marital relationships as the biggest issues. Tomšič was well aware that by handling the panic about divorce, she was dealing with broader issues regarding women’s emancipation, from the right to work to the right not to be abused. Her efforts influenced the official Party and government agenda, and ensured that subsequent legislation did not introduce stricter rules for divorce. Her views were also important in limiting the impact of the children’s charity societies, who advocated for administrative measures against divorce. Tomšič was able to control the state’s policies on this issue, but her views were ineffective when it came to the general population, particularly in the countryside. This further demonstrates the bounds of the Party’s control over public feeling and daily practices.⁶⁴

Conclusions

The divorce issue was a particularly sensitive one for the Party. New post-war legislation was a progressive force that replaced very old legal codes and challenged well-established cultural practices. Based on the Soviet model, Yugoslav legislation allowed for a relatively easy divorce procedure, guaranteed support and alimony, and declared that what was allowed for men was equally allowed for women. Theoretically, it was a step towards an ideal communist morality in which partners were joint agents in an arrangement of mutual love, honesty, and respect, and where extramarital relationships would not exist. Divorce, therefore, was a tool for ensuring that unhappy marriages would disappear, and that unhappy partners would not be eternally trapped therein. At the same time, following Soviet codes, the legislation

⁶³ Tomšič, Vida, „Govor na Četvrtom plenumu CK SKJ”, *Komunist*, 4, April 1954, str. 329–334.

⁶⁴ AJ, Savez socijalističke omladine Jugoslavije (114), 73, Tomšič, Vida, „Porodica kao faktor vaspitanja”, 14 December 1955.

still envisioned shared responsibility for children, and help for partners in a weaker financial position.

For the Party and the state apparatus it built after the war, the overwhelming challenge was to enforce the new legislation. The new legislation was radically different from established cultural practices, particularly in the countryside. Divorce was considered shameful, always a disgrace for a woman, while any financial support or splitting of property was unthinkable. Despite the low number of divorces in the countryside, and even lower number of cases brought to the courts, there was real resistance to the new legislation, against which local courts were often powerless. The situation was only slightly better in the cities, where the challenge was to force men to pay alimony even after the courts' rulings. Women engaged in different strategies to protect their rights, sometimes even asking for help directly from the most important women in the Communist Party. Most of the time, however, alimony was not paid.

Women in the Party handling the issue of divorce at the top state level had to fight for the implementation of the law, but also to preserve current legislation due to the panic both in the media and among their own rank and file. Newly opened legal advice offices helped with alimony lawsuits, magazines published advice, and notable communists intervened directly where they could. However, opposition to new laws that threatened long-standing cultural practices was fierce. The media blamed women and their employment for the disintegration of the family, while women themselves demanded a strengthening of the marital laws as a means of protection from men's adultery. The process of domestication of the Soviet model was slow, met with resistance, and was sometimes fully rejected, despite the absolute political power of the Party. Powerlessness in ensuring alimony payments and the protection of dependants was one of the first failures of the Party's post-war gender project.

References

- Archive of Yugoslavia (Arhiv Jugoslavije), Collections: Antifascist Women's Front (Antifašistički front žena, 141), Socijalistički savez radnog naroda Jugoslavije (142), Savez ženskih društava Jugoslavije (354)
- Antić, Milica G., and Ksenija H. Vidmar. "The Construction of Women's Identity in Socialism: The Case of Slovenia", in: *Gender and Identity: Theories from And/or on Southeastern Europe*, edited by Jelisaveta Blagojević, Katerina Kolozova, and Svetlana Slapsak. Belgrade: Women's Studies and Gender Research Center, 2006.
- Attwood, Lynne, *Gender and Housing in Soviet Russia: Private Life in a Public Space*, Manchester: Manchester University Press, 2010.
- Bayly, C. A., Sven Beckert, Matthew Connolly, Isabel Hofmeyr, Wendy Kozol, and Patricia Seed. "AHR Conversation: On Transnational History", *The American Historical Review*, 111, no. 5, December 2006, pp. 1441–1464.
- Božinović, Neda, *Žensko pitanje u Srbiji u XIX i XX veku*. Belgrade: Devedesetčetvrti, 1996.
- Cvejić-Jančić, Olga, "Brak i razvod između prošlosti i budućnosti", *Zbornik radova Pravnog fakulteta*, 43, 2, 2009, str. 63–88.
- Erlich, Vera St., *Family in Transition: A Study of 300 Yugoslav Villages*, Princeton, N.J.: Princeton University Press, 1966.
- Fidelis, Malgorzata, *Women, Communism, and Industrialization in Postwar Poland*, Cambridge; New York: Cambridge University Press, 2010.
- Goldman, Wendy Z., *Women at the Gates: Gender and Industry in Stalin's Russia*, Cambridge; New York: Cambridge University Press, 2002.
- Goldman, Wendy Z., *Women, the State, and Revolution: Soviet Family Policy and Social Life, 1917–1936*, Cambridge; New York, New York, USA: Cambridge University Press, 1993.
- Gudac-Dodić, Vera, "Divorce in Serbia", *Tokovi istorije*, 1–2, 2008, str. 137–48.
- Habul, Udjejna. "Institut razvoda braka u historiji Bosne i Hercegovine", *Institute of the Divorce in the history of B&H*, 1, 2006, str. 457–471.
- Hoffmann, David L., "Mothers in the Motherland: Stalinist Pronatalism in Its Pan-European Context?", *Journal of Social History*, 34, 1, 2000, pp. 35–54.
- Hoffmann, David L., *Cultivating the Masses: Modern State Practices and Soviet Socialism, 1914–1939*, Ithaca, N.Y.: Cornell University Press, 2011.
- Hoffmann, David L., *Stalinist Values: The Cultural Norms of Soviet Modernity, 1917–1941*, Ithaca: Cornell University Press, 2003.
- Jovanović, Miroslav, "Preslikana ili samobitna društvena izgradnja: komparativna analiza ustava FNRJ (1946) i „Staljinskog” ustava SSSR-a (1936)", *Tokovi istorije*, 1–2, 2008, str. 280–290.
- Kaser, Karl, *Porodica i srodstvo na Balkanu : analiza jedne kulture koja nestaje*, Belgrade: Udruženje za društvenu istoriju, 2002.

- Lapidus, Gail Warshofsky, *Women in Soviet Society: Equality, Development, and Social Change*, Berkeley: University of California Press, 1978.
- Lodge, Olive, *Peasant Life in Yugoslavia*, London: Seely, Service, 1942.
- Mishkova, D. "Liberalism and Tradition in the Nineteenth-Century Balkans: Toward History and Methodology of Political Transfer", *East European Politics & Societies*, 26, 4, 2012, pp. 668–692.
- Mladenović, Stanko, *Spasenija Cana Babović. Revolucionari Šumadije*. Beograd; Kragujevac: Rad; Svetlost, 1980.
- Petrović, Milica, "Alkoholizam i porodica", in: *Alkoholizam i društvo: zbornik radova*, edited by Milorad Dragić, Radul Jovanović, Radošin Rajović, Dušan Simeunović, and Srba Stoiljković, Belgrade: Rad, 1961, pp. 183–189
- Prokop, Ana, *Ravnopravnost žene, brak i porodica: po Ustavu Federativne Narodne Republike Jugoslavije*, Zagreb: Antifašistički front žena Hrvatske, 1946.
- Proleter*
- Reid, Susan E., "All Stalin's Women: Gender and Power in Soviet Art of the 1930s". *Slavic Review*, 57, 1, 1998, pp. 133–173.
- Savić, Branka, *Uloga porodice u vaspitanju dece*, Belgrade: Savet društava i organizacija za vaspitanje i staranje o deci NRS, 1954.
- Shulman, Elena, *Stalinism on the Frontier of Empire: Women and State Formation in the Soviet Far East*, Cambridge: Cambridge University Press, 2012.
- Sklevicky, Lydia, *Konji, žene, ratovi*, Zagreb: Druga; Ženska infoteka, 1996.
- Službeni list Federativne Narodne Republike Jugoslavije*
- Statistički Godišnjak FNRJ, 1955.
- Timasheff, Nicholas S., *The Great Retreat; the Growth and Decline of Communism in Russia*, World Affairs: National and International Viewpoints. New York: Arno Press, 1972.
- Wood, Elizabeth A., *The Baba and the Comrade: Gender and Politics in Revolutionary Russia*, Bloomington: Indiana University Press, 1997.
- Žena danas
- Žena u borbi

Резиме

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Совјетски модел и питање развода у раном југословенском социјализму

Питање развода је било врло осетљиво за Комунистичку партију Југославије. Ново, послератно законодавство мењало је старе правне норме, и угрожавало устаљене културне праксе. Следећи совјетски модел, југословенски комунисти су увели релативно једноставну процедуру за развод, гарантовали једнака права супружника при разводу као и подршку и алиментацију. Предвиђена је заједничка одговорност о деци, равноправност при подели имовине, као и подршка бившем партнеру слабијег материјалног стања. Кроз стаљинистичку интерпретацију марксистичке теорије, ново законодавство је требало да буде степеница ка социјалистичком браку у коме су супружници спојени у љубави, поштењу и поштовању, а где ванбрачне афере не постоје. Развод је схваћен као начин да се несрећни бракови раставе и нестану. Међутим, Партија и државни апарат сусрели су се са великим отпором у примењивању овог закона. Радикално другачије законодавство сукобило се са нормама у којима је развод сматран срамотним, а финансијска подршка или подела имовине незамислива. Жене су примењивале бројне стратегије да одбране своја права, укључујући директан контакт са битнијим функционеркама у Партији, али алиментација најчешће није била исплаћивана.

Жене у врху Партије које су се бавиле питањем развода бориле су се за имплементацију законодавства, али и са моралном паником, која је уследила након повећања броја развода, за шта су најчешће оптуживане жене и њихова запосленост ван куће. Панику су ширила и бројна друштва за заштиту деце, захтевајући стриктније законодавство. Проблем примене законодавства о разводу, и отпори који су долазили са више страна, показују да је процес прилагођавања совјетских пракси био спор, а често и врло неуспешан, упркос апсолутној политичкој моћи Партије. Немогућност да осигурају плаћање алиментације и тако заштите разведене жене, било је један од првих неуспеха Партије у мењању родних односа након рата.