

УДК 316.356.2-055.623(497.1)"196/..."  
347.632(497.11)"196/..."

DOI <https://doi.org/10.31212/tokovi.2024.3.gud.165-182>

Original scientific paper/Оригинални научни рад

Примљен/Received: 21. 7. 2024.

Прихваћен/Accepted: 26. 11. 2024.

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### **Marginalization of Children from Divorced and Unwed Parents: Some Alimony Issues in 1960s Yugoslavia\***

**Abstract:** The Yugoslav state's legislative actions throughout the early stages of socialism acknowledged parents' equality in terms of rights and responsibility to children. This is argued throughout the article by presenting laws that explicitly control parent-child relationships, the status of children from divorced marriages and children born out of wedlock, and difficulties surrounding their maintenance. The paper covers the issues surrounding the legal right to alimony for children of divorced parents and children born out of wedlock in different regions of Yugoslavia across the 1960s.

**Keywords:** child support, divorce, children born out of wedlock, single mothers, court practices

In socialist discourse, the emphasis on children and childcare—not merely nominal but also manifested in various substantive ways—extended beyond parental responsibilities and encompassed the whole of society. “With socialism envisioned as a socio-political program aimed at future realization,”<sup>1</sup> social care for children and young people constituted a crucial component of

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\* The article was written as a result of work at the Institute for Recent History of Serbia, which is financed by the Ministry of Science, Technological Development, and Innovation of the RS, based on the Agreement on Realization and Financing of Scientific Research NIO in 2024 No. 451-03-66/2024-03/200016 of 5.2.2024.

1 Ksenija Vidmar Horvat, *Imaginarna majka. Rod i nacionalizam u kulturi 20. stoleća*, (Zagreb: Sandorf, 2017), 58.

the socialist agenda. Through legislation and normative regulations, social policies and institutional support, the socialist state endeavored to safeguard children's rights, focusing on the younger generation. In addition to the normative-legal framework, the government demonstrated its commitment to child welfare by establishing various institutions and implementing measures aimed at supporting children and their families. These measures included maternity support, paid maternity leave, one-time financial assistance for newborns, the introduction of child allowances, and the development and strengthening of institutions providing free healthcare for children. However, despite the significant expansion of state-run kindergartens in socialist Yugoslavia, such facilities were never able to accommodate all children, and regional disparities in the availability of kindergartens and the extent of childcare coverage exacerbated this issue. In early Yugoslav socialism, one of the primary objectives was the upbringing of children aimed at cultivating the ideal socialist individual.<sup>2</sup> Young people were generally regarded as the most important social group.<sup>3</sup> The official narrative of the importance of maternity and childcare was dominant even in the later period: "The central issue regarding the position of women in the family and society is the problem of maternity and childcare."<sup>4</sup> This prioritization of children included not only financial support but also comprehensive assistance from both the state and society. Nevertheless, the policies of the Yugoslav state were not always successful in eliminating discriminatory practices and transforming existing relations in various aspects of everyday life.

### *The legislative activity of the state*

The socialist egalitarian legislation radically redefined the relationship between parents and children in numerous ways.<sup>5</sup> The principle of gender equal-

2 Efforts for children to be "educated properly in the spirit of the new Yugoslavia" were defined as one of the most important goals by Josip Broz Tito in his public addresses. Arhiv Jugoslavije (AJ), fond 836, Kancelarija maršala Jugoslavije (KMJ), II-3/f-1-1, JB Tito's address to the Second Congress of the Women's Antifascist Front [AFŽ], 1948.

3 Ivan Simić, *Soviet Influences on Yugoslav Gender Policies, 1945–1955*. Doctoral thesis, University College London, 2016, 162. Accessed 17. 7. 2024, discovery.ucl.ac.uk.

4 Vida Tomšič, *Žena u razvoju socijalističke samoupravne Jugoslavije*, (Beograd: Jugoslovenski pregled, 1981), 1, 34.

5 In the Kingdom of Yugoslavia, six distinct legal frameworks coexisted simultaneously. The diversity and complex landscape in matters of marriage and marital relations, coupled with pronounced inconsistencies in principles and a division of judicial jurisdiction between the state and certain religious communities, resulted in legal ambiguity. Consequently, the Law on the Invalidity of Legal Regulations Enacted Before April 6, 1941, and During

ity was enshrined in much of socialist legislation, among others in family law, which underscored the legal equality between spouses in marriage and parenting. This legal framework regulated the relationships between parents and children, including the legal status of children from divorced marriages and those born out of wedlock, as well as the question of their financial support.

The first post-war Yugoslav supreme legal act, the 1946 Constitution of the Federal People's Republic of Yugoslavia (FNRJ), in its Article 26 articulated general principles regarding marriage and family. It unequivocally equalized the obligations of parents towards children born in and out of wedlock, stating, "Parents have the same obligations and duties towards children born out of wedlock as they do towards marital children. The status of children born out of wedlock is regulated by law."<sup>6</sup> Additionally, the same article stipulated that "minors enjoy a special protection of the state," guaranteeing them not only family protection but also special government protection, reflecting the ideological commitments of the socialist state that prioritized children and the young.

The laws that followed and narrowed down constitutional provisions relevant in the context of this paper were the Basic Marriage Law of 1946 and the Basic Law on Parent-Child Relations, adopted a year later. The early socialist legislation in family law also included the Basic Guardianship Law and the Law on Adoption. These laws established unique solutions in the domain of family law, applicable across the Yugoslav state.<sup>7</sup>

The Basic Marriage Law established the equality of rights and obligations of parents towards their children, as well as joint responsibility for their

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the Occupation in the realm of family law was in force for a brief period. The legislative activity of socialist Yugoslavia in the field of civil legislation commenced with the adoption of new regulations on family relations. According to: Marija Draškić, „Teška poremećenost bračnih odnosa kao brakorazvodni uzrok: kreacija profesora Mihaila Konstantinovića”, *Anali* 70/2022, poseban broj, 266. The Serbian Civil Code, in force from 1844 to 1946, established legal inequality for women, among other things related to family and marriage law. The Code stipulated that in cases of divorce, male children over the age of four and female children over the age of seven would be placed in the custody of the father (par. 118). A woman fully exercised parental rights only over an illegitimate child, with the obligation "to take care of his life and health, to raise him well..." (par. 129). Inquiry into the paternity of an illegitimate child was prohibited: "The matter of the identity of the father of the extramarital child is not to be researched and proven." The sole exceptions were cases of abduction or rape (par. 130). Serbian Civil Code for the Kingdom of Serbia, *Srpski građanski zakonik* – original – Викизворник (wikisource.org) (Accessed 16. 7. 2024).

6 *Ustav FNRJ 1946*, (Beograd: Službeni list FNRJ, 1946), čl. 26.

7 Draškić, „Teška poremećenost bračnih odnosa kao brakorazvodni uzrok: kreacija profesora Mihaila Konstantinovića”, 267.

support and upbringing.<sup>8</sup> Children from void and invalid marriages were accorded the same rights in relation to their parents as those born in marriage. In cases of divorce, the court, prioritizing the best interests of the child, determined which spouse would be granted custody. At the same time, the non-custodial parent was required to provide support based on their financial ability.

The Basic Law on Parent-Child Relations, adopted in December 1947, was also instrumental in the development of early socialist legislation in the domain of family law. This law regulated the relationships between parents and children born in marriage, as well as those born out of wedlock, equating their legal status in relation to their parents.<sup>9</sup> Parents were thus granted the same rights and responsibilities towards both marital and extramarital children.

The legislation also provided mechanisms for establishing the paternity of children born out of wedlock.<sup>10</sup> According to legal regulations, paternity of a child born outside of marriage could be established in two ways: through acknowledgment by the father before a registrar, in a public document, or in a will. The acknowledgment was only entered into the birth register with the mother's consent.<sup>11</sup> Another option for determining a child's paternity was through a court decision. The mother or guardian could file a lawsuit within five years of the child's birth, or the child could file within five years of reaching adulthood.<sup>12</sup>

It stipulated that the father of such a child was required to contribute to the expenses related to the mother's pregnancy and childbirth, as well as her support for three months before and after childbirth, in proportion to his financial capabilities. The father was also obligated to support the child, irrespective of the child's legitimacy.

The Basic Law on Parent-Child Relations further detailed the obligation to support children in Articles 6 and 32-40. In addition to mandating parental support for underage children, the law also required children to support

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8 „Osnovni zakon o braku“, *Službeni list FNRJ*, br. 29, 1946, čl. 6.

9 “Parents have the same rights and duties to children born in marriage or out of wedlock. Children born in marriage or out of wedlock have the same rights and duties to their parents.” „Osnovni zakon o odnosima roditelja i dece“, *Službeni list FNRJ*, br. 104, 1947, čl. 3.

10 The legal provisions allowing and regulating the determination of paternity for an illegitimate child were markedly different from the earlier legal norms and practices in pre-war Serbia and Yugoslavia.

11 If the mother did not consent, the person claiming to be the child's father could file a lawsuit in court to have his paternity legally recognized. „Osnovni zakon o odnosima roditelja i dece“, čl. 24.

12 „Osnovni zakon o odnosima roditelja i dece“, čl. 25.

their parents. This maintenance obligation extended even to parents who had been completely deprived of parental rights. The law explicitly stated that any waiver of the right to maintenance was legally ineffective.

Protection against child neglect and refusal to pay legally mandated child support (alimony) was reinforced by the Criminal Code of 1951, by which failure to pay child support constituted a criminal offense.<sup>13</sup> Criminal offences against marriage and the family were addressed in Section 17 of the Criminal Code. Article 106 stipulated that a parent or guardian who abused or neglected a child under their care would be subject to imprisonment for up to two years. Article 197, which established penalties for non-payment of child support, was particularly significant: "Those who avoid providing support for a person whom they are legally obligated to support, based on a binding decision, shall be subject to a fine or imprisonment for up to one year."<sup>14</sup>

Despite the enactment of laws, everyday life presented a different reality. Cultural practices and established behavioral patterns rooted in patriarchal traditions were resistant to change, and equality in parental rights often remained a legal formality. Although legislation regulated parental obligations towards children after a divorce and addressed the maintenance of children born out of wedlock; in reality, many children were excluded from these protections. Various social services in Yugoslavia, including centers for social work and women's organizations, conducted extensive research on the evasion of alimony payments to children after divorce, children born out of wedlock, and "single mothers." They would propose and recommend measures aimed at resolving or at least alleviating these problems.

#### *Everyday practices in the sixties*

One of these studies was conducted in Slovenia during 1962 and 1963, after several years of studying the children at the Children's Dispensary in Maribor, focusing on their physical and psychological development. The Counseling Center in Maribor, the Center for Social Work, the Red Cross, the Court in Maribor, the Friends of Youth Association, social welfare authorities, and the entire team of the Children's Dispensary in Maribor collaboratively analyzed various groups of children. This analysis included a group of children aged 3 to 7 affiliated with institutions for child protection. Among the 800 children studied, 11% came from single-parent families, were children born out of wedlock, or came from divorced marriages or had no parents. If the chil-

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13 „Krivični zakonik“, *Službeni list FNRJ*, br. 13, 1951.

14 „Krivični zakonik“, čl. 197, 205.

dren had parents, it was the mother who participated in the survey, as none of the children lived with their fathers. The findings of the research were presented by Dr. Alma Halas<sup>15</sup> in a report read at the Municipal Conference for the Social Activity of Women in Maribor. In addition to data on health characteristics, adaptability, and certain “mental disorders,” the findings regarding the maintenance of these children were particularly noteworthy. Despite legal obligations requiring both parents to care for the child in proportion to their abilities, the survey revealed that not a single father paid child support, even though the stipulated amounts were minimal, and none of the fathers voluntarily increased these amounts. Fathers would agree to pay child support only following a lawsuit or court decision. Many of the surveyed mothers did not even request child support from the fathers. Some mothers did not receive child support for months or even years. Fathers often evaded their alimony obligations by leaving their jobs or taking employment in unknown locations without informing the child’s mother. They frequently provided incorrect information about their income or fled abroad. Some fathers of children born out of wedlock falsely promised to marry the mothers, and those who later formed new families often threatened the mothers or urged them not to damage “their honor and second family.”<sup>16</sup>

Court practices indicate that when determining the amount of child support, courts would “at best consider only the monetary expenses for the child.” According to the aforementioned survey, there was not a single case where the court has accounted for the full scope of work and the value of the work performed by the mother in terms of care and rearing. In some instances, the court has considered the father’s “need to create a new family.” For example, in the case of a certain professor, the court recognized that “because of his occupation, he must be well-dressed and shod, and this resulted in determining an amount that did not even cover the expenses for essential items such as milk for the child.”<sup>17</sup> Consequently, mothers were compelled to seek employment if they were not already working. The significant involvement in childrearing hindered their professional advancement, full engagement in their work, and attainment of higher management positions. According to that research, besides the relatively low sums determined as maintenance ob-

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15 Alma Halas was a doctor and a representative of the children’s dispensary in Maribor at the Municipal Women’s Conference counseling session in Maribor.

16 “Alimony is a neglected problem... What was shown by the consultation of the Municipal Conference for the social activity of women in Maribor”, *Žena danas*, br. 235, 1964, 2.

17 *Ibid.*

ligations, fathers were often relieved of taking care of the children and other related responsibilities.

According to Dr. Alma Halas's report, the actual material value of "the work a mother puts into supporting, raising, and caring for a child" was several times higher than the alimony awarded to children from divorced marriages and those born out of wedlock, as indicated by the court data in Maribor for 1961.<sup>18</sup>

Based on the practice of the court in Maribor, it was established that in 1962 and 1963, the amounts of alimony for children were slightly higher than in previous years. However, they were still inadequate and did not match the real expenditures of child support. Mothers who had been awarded very low child support in previous years did not attempt to repeat the procedure before the court to increase this amount. None of the surveyed women did so, some because they were unaware of their right to do so, others due to threats from the fathers, or because they were "afraid of the court and trial."<sup>19</sup>

The standard of living of children from "incomplete families," according to the report, was generally very low, primarily because the amounts awarded did not cover even a tenth of the expenses needed to support a child.

"Incomplete family," "single mother family," "unmarried mother with children," and "truncated family" are terms that, until the 1970s, were used to denote families consisting of a single parent and children, usually a mother and child/children, given the fact that families made up of mothers with children were far more numerous than families of fathers and children. As these terms associated some kind of social deviation of the family structure, the more neutral term "single-parent family" was accepted in the seventies. This term was left undetermined in terms of gender.<sup>20</sup> More recently, the terms "independent parenting" and "single parents" also gained prominence.<sup>21</sup>

18 This is supported by the precise amounts of alimony awarded, while the analysis also included the salaries of educational staff in full-time child care institutions alongside the material expenses for the children.

19 "Alimony is a neglected problem".

20 Anđelka Milić, *Sociologija porodice – kritika i izazovi*, (Beograd: Čigoja, 2001), 190–191; Vera Gudac Dodić, „Jednoroditeljske porodice, društvena praksa i svakodnevnica tokom druge polovine dvadesetog veka”, *Tokovi istorije* 3/2013.

21 Marina Hughson, *Mnogo odgovornosti, premalo podrške: sami roditelji na Zapadnom Balkanu*, (Beograd: IKS, 2015), 17–20; Marina Hughson, „Sami roditelji na Zapadnom Balkanu: javna nevidljivost i patrijarhalne institucije”, *Politike roditeljstva: Iskustva, diskursi, institucionalne prakse*, ur. Isidora Jarić, (Beograd: Sociološko udruženje Srbije i Crne Gore; Institut za sociološka istraživanja Filozofski fakultet, Univerzitet u Beogradu, 2015), 11–35.

Everyday life in the 1960s revealed that the legal provisions stipulating that both the father and the mother are obliged to take care of the child were often circumvented in cases of children from divorced marriages and illegitimate children. The reasons contributing to this condition included the mild sanctions provided for lawbreakers, which were rarely enforced even as such, the fact that lawbreakers were brought before the civil rather than criminal courts, and the overly general formulation of the law regarding child support. The report stated that a person who steals money, even a mere “several thousand dinars,” is making a criminal offence, while a parent who does not provide maintenance to their own child and is guilty that “their child does not have enough bread to eat, or because society has to take care of it, and still such a parent still freely among us and often even seems respectable and reputable. However, an individual who neglects or inadequately cares for their child is an antisocial creature who should not occupy any important position in our society because they are exploiting their fellow man.”<sup>22</sup> The report proposes the introduction of a legal provision ensuring that maintenance obligations do not expire and cannot be waived. Additionally, it advocates for stricter sanctions against parents, whether mother or father,<sup>23</sup> who evade or irregularly fulfill child support obligations. Such failures should be classified as criminal offenses, prosecutable on the basis of reports from any citizen, not solely on the mother’s complaint.<sup>24</sup>

Dr. Alma Halas’s perspective on the overly vague language of the law governing the maintenance of children from divorced marriages was not an isolated opinion. In the 1960s, the prevailing view among women’s organizations and social services was that the existing regulations were “inefficient and did not provide secure realization of the right to child support, leading to numerous unresolved problems, especially for children.”<sup>25</sup>

Data from Belgrade, the Yugoslav capital, reveal a similar situation in the early 1960s. Surveys conducted at social work centers and individual companies confirm that many mothers did not receive alimony from their ex-husbands after divorce. Of the ninety divorced mothers included in the survey, the majority of them, sixty, did not receive child support despite the legal obliga-

22 “Alimony is a neglected problem”, 2–3.

23 Interestingly, in her conclusion of the report, the author is challenging the notion that courts should almost always give custody to mothers after a divorce, acknowledging that some fathers also take good care of children and can raise them well. The report also notes that mothers sometimes fail to pay maintenance to fathers.

24 “Alimony is a neglected problem”, 2–3.

25 AJ, fond 142, Socijalistički savez radnog naroda Jugoslavije, Neki problemi porodice, 1966.



tions of the fathers. Concurrently, judge J. Dimitrijević of the district court in Belgrade noted that it was not uncommon for women to “refrain from suing their husbands for child support.”<sup>26</sup>

Research conducted in 1962 by the Center for Social Work in Belgrade, which included 200 children, indicated that most parents did not pay alimony, with 65% of cases reflecting this issue. Only 25% of parents regularly paid child support, while the remainder did so irregularly or occasionally. Further analysis revealed that among parents who did not provide support, 43% did not pay because the other parent did not request it, 31% did not want to pay, and 26% were unemployed and unable to provide support. This dire situation worsened when additional parameters such as children’s care, health, treatment, education, and schooling were considered. Divorced parents regularly agreed and consulted on child-rearing issues in only 3.5% of cases. The non-custodial parent rarely saw their children, with nearly half (48%) not seeing them at all. According to the research, the non-custodial parent spent the annual vacation with the child in only 5% of cases. This indicated that most non-custodial parents lost all interest in their children after the divorce.<sup>27</sup>

The social conditions in Croatia were quite similar. In the late 1950s, the Council for Social Protection of the City of Zagreb conducted a study on the living conditions of single mothers and their children, surveying 202 mothers. The findings revealed that over half of the participants, 124 women, were unemployed. The survey included 323 children, with approximately 60% born within marriage and 40% out of wedlock. The majority of the mothers surveyed were divorced, followed by those who had given birth out of wedlock, while widows constituted the smallest group. The fathers’ involvement in their children’s lives, whether from divorced marriages or out of wedlock, was alarmingly low, according to the study. Fathers often completely neglected their responsibilities, as in the case of unemployed mothers in 41.6% of cases, and employed mothers in 57% of cases. In many instances, fathers provided only sporadic and minimal financial support. On average, only 4.5% of

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26 Istorijski arhiv Beograda (IAB), fond 2245, Konferencija za društvenu aktivnost žena Beograd (KDŽ), k. 4. Minutes from the meeting of the founding conference for the social activity of women in the municipality of Stari Grad, November 10, 1961. From the discussion of Jovan Dimitrijević, district court judge.

27 IAB, KDŽ, k. 5, Neki problemi dece iz razvedenih brakova, Zavod za proučavanje socijalnih problema grada Beograda, 1962; Vera Gudac Dodić, *Žena u socijalizmu*, (Beograd: INIS, 2006), 94–95; Vera Gudac Dodić, “Divorce in Serbia,” *Tokovi istorije* 1–2/2008.

fathers maintained regular and continuous care for their children following a divorce or when the children were born out of wedlock.<sup>28</sup>

The challenging living conditions of these women and children were exacerbated by the low educational levels of the mothers, most of whom lacked formal qualifications. More than half of the mothers had no stable income, instead relying on occasional work, such as laundering clothes or assisting with household chores. Children were frequently left unattended, often under the supervision of an older sibling. A quarter of the children were left completely alone while their mothers worked. Many employed mothers sought additional work after regular working hours, often in other households, to earn extra income and provide for their children. This relentless work schedule, devoid of rest or leisure, took a toll on their health, all of which adversely affected their children. The legal obligation of parents to jointly care for and support their children often dissipated in practice after a divorce, leaving the burden of care predominantly on one parent, typically the mother.<sup>29</sup>

The situation for illegitimate children was even more precarious, with fathers contributing even less to their welfare. The aforementioned survey indicated that, in Zagreb, the rate of paternity recognition for children born out of wedlock was alarmingly low, at only 20%.<sup>30</sup>

As in other parts of Yugoslavia, some women in Croatia who lacked the means to support their children did not pursue child support, despite their legal right to do so, out of fear of losing custody of their children. Many of them were unaware of their legal rights.<sup>31</sup> Additionally, during the early 1960s, the challenge of securing alimony from fathers who were either unemployed or lived with their parents was significant.<sup>32</sup>

These surveys, based on numerous examples and cases, all paint similarly bleak pictures, regardless of which part of the country they were conducted in. The challenges faced by children from divorced marriages and those born out of wedlock, along with their custodial parents, predominantly moth-

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28 Hrvatski državni arhiv (HR-HDA), fond 1234, Konferencija za društvenu aktivnost žena Hrvatske 1943–1990, Savjet za socijalnu zaštitu narodnog odbora grada Zagreba, Saradnja organa javnog tužništva i sudova u rješavanju problema porodica samohranih majki, 2 July 1957; Gudac Dodić, „Jednoroditeljske porodice”, 226–227.

29 Ibid.

30 The data is for 1956.

31 Women’s organizations in Yugoslavia, starting with the Anti-Fascist Women’s Front and extending through various women’s societies to the Conference for Women’s Social Activity, frequently sought to educate women about the laws that ensured their legal equality.

32 HR-HDA-1234, Rad organa starateljstva na pitanjima zaštite djece iz razvedenih brakova, vanbračne djece i alimentacionih davanja, Zagreb, 1964.

ers, were often marked by the non-custodial parent's attempts to minimize or avoid paying child support. In the 1960s, it was not uncommon for the parent obligated to pay alimony, usually the father, to leave a permanent job just to evade these responsibilities.<sup>33</sup> Court records reveal numerous instances of such attempts, including a case in which a father, post-divorce, claimed at the Supreme Court that he could not contribute financially to his child's maintenance at all because his entire estate belonged to his father.<sup>34</sup>

The challenges associated with securing alimony for children from divorced marriages and illegitimate children have attracted significant attention and analysis from women's organizations and judicial authorities.

In the early 1960s, the Presidency of the Serbian Women's Social Activity Conference<sup>35</sup> (KDŽ), alongside judicial authorities and other relevant institutions, analyzed the problem of supporting children from divorced marriages and those born out of wedlock, highlighting numerous unresolved issues. The main conclusions emphasized the need for more precise legal regulation and organized social action. The Presidency put forward several suggestions and recommendations to clarify the laws governing alimony issues for the protection of children and to implement measures aimed at reducing the excessively lengthy duration of litigation related to child support.<sup>36</sup>

In the mid-1960s there was a consultation at the District Court in Belgrade on the financial circumstances of children from divorced marriages and those born out of wedlock, and it was noted that the number of divorces was on the rise<sup>37</sup>, with courts typically awarding custody to the mother. Child support was provided by only a quarter of non-custodial parents, while the

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33 IAB, KDŽ, k. 4, Information on the problems of women in the agriculture and food industry of Belgrade, 1961.

34 AJ, fond 837, Kabinet predsednika Republike, II-2/16. Delegation of the 4th Congress of AFŽ.

35 The Conference for the Social Activity of the Women of Yugoslavia was a women's socio-political organization established in 1961, succeeding earlier organizations such as the Anti-Fascist Front of Women of Yugoslavia (1942-1953) and the Union of Women's Societies of Yugoslavia (1953-1961). Operating within the framework of the Socialist Union of the Working People of Yugoslavia, the conference focused on issues related to women's social status. In addition to the Conference for the Social Activity of Women of Yugoslavia, conferences also existed at the municipal, provincial and republican levels.

36 "Alimony is a neglected problem".

37 Other sources indicate that divorces in Belgrade have also increased. In 1952, there were 18 divorces for every 100 marriages, while by 1961, this number had risen to 29 divorces per 100 marriages. IAB, KDŽ, k. 5, Some Problems of Children from Divorced Marriages. In Yugoslavia, 15,566 marriages were dissolved from 1950 to 1954, increasing to 20,497 from 1955 to 1959. The figures for the following years were 22,085 in 1960, 21,532 in 1961,

rest either refused or were unable to pay due to low income or unemployment. Court cases over child support typically took several months to finish, with courts rarely imposing interim measures or thoroughly investigating the parents' income and assets, even when required to do so. Moreover, the criteria for determining child support amounts<sup>38</sup> were inconsistent across courts and even within different panels of the same court. There was also inadequate cooperation between the courts and guardianship authorities, such as social work centers. Courts often failed to deliver divorce judgments to these centers or inform them about child support disputes. The short deadlines imposed on guardianship authorities for submitting reports on the living conditions of children with their parents further hindered thorough investigations, resulting in incomplete reports being submitted to the courts. The difficulties associated with securing child support from parents working abroad were particularly acute, given the high number of such cases.<sup>39</sup>

Based on the issues observed in previous court practices, several guidelines and recommended measures were proposed to alleviate these challenges. The conclusions from the Belgrade court consultation suggested that, to ensure the prompt protection and financial security of children from divorced marriages and those born out of wedlock, it was essential to expedite child support procedures. To achieve this, courts should establish specialized panels for child support disputes to expedite proceedings and standardize the criteria regarding the needs of the child and the parents' ability to pay. The court should not be bound by the parents' agreement regarding child support but should instead base its decisions on evidence of the parents' financial capabilities. In child support disputes, courts should swiftly obtain evidence of the parents' income and assets and immediately issue interim measures for child support. These interim measures should be communicated directly to the employer of the obligated parent to ensure the provision of child support until the dispute is resolved. Courts should also consider the child's age and needs, as well as

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21,198 in 1962, and 21,328 in 1963. *Statistički godišnjak SFRJ 1965*, (Beograd: Savezni zavod za statistiku, 1965).

38 The document noted that in the majority of cases during 1964, the amount of alimony ranged from 1,000 to 5,000 dinars per month per child. However, in the early months of the following year, this amount significantly increased, in many cases ranging from 5,000 to 10,000 dinars per child. IAB, KDŽ, k. 5. Conclusions from the consultation in the District Court in Belgrade on September 25, 1965, regarding the financial position of children from divorced marriages and illegitimate children.

39 IAB, KDŽ, k. 5. Conclusions from the consultation in the District Court in Belgrade on September 25, 1965.

both parents' financial capacities, when determining the amount of child support, using the annual average of the parents' income as a basis. The consultation's conclusions emphasized the need to standardize the criteria for determining alimony amounts across all courts. It was also recommended that the criteria for criminal offenses under Articles 196 and 197 of the Criminal Code,<sup>40</sup> which pertain to the avoidance of alimony payments, be made more stringent, particularly in cases of repeat offenses. The consultation also stressed the importance of close cooperation between courts and social work centers. Courts should be required to inform social work centers of every divorce dispute involving children and any related court decisions. This cooperation should ensure that court decisions on matters affecting children are made with the involvement of social work representatives. Conversely, guardianship authorities are obligated to report on the living conditions of children who live with their parents. They should also provide professional assistance to parents in securing material and other forms of protection for their children, such as requesting changes to alimony decisions, locating the employment address of a parent who avoids paying alimony, etc. Guardianship authorities - social work centers, should also inform single parents, either directly or through municipal legal aid services, about the possibility of seeking alimony if the other parent resides and works abroad.<sup>41</sup>

### *On the social margin*

Numerous studies conducted in Yugoslavia, as well as in other countries, have consistently demonstrated that single-parent families were predominantly impoverished. Throughout the post-war period, single mothers with children constituted the vast majority of single-parent households. This demographic group represented the poorest sector of society and remains "disproportionately impoverished compared to other family structures,"<sup>42</sup> even in contemporary times. Children in such families were at a heightened risk of poverty and exhibited a higher poverty rate than those from other familial arrangements.<sup>43</sup> Several previously mentioned factors contributed to this, in-

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40 This refers to the provisions of the 1951. Criminal Code.

41 IAB, KDŽ, k. 5. Conclusions from the consultation in the District Court in Belgrade on September 25, 1965, on the financial position of children from divorced marriages and illegitimate children.

42 Smiljka Tomanović, Milana Ljubičić, Dragan Stanojević, *Jednoroditeljske porodice u Srbiji, sociološka studija*, (Belgrade: Čigoja štampa; Institut za sociološka istraživanja Filozofskog fakulteta u Beogradu, 2014), 17.

43 Gudac Dodić, „Jednoroditeljske porodice”, 222–223.

cluding the unemployment or low income of many mothers. Additionally, the precarious financial situation of single-parent families was exacerbated by the “irregularity or minimal nature of alimony payments from the non-custodial parent, typically fathers, who often faced the financial burden of supporting two households.”<sup>44</sup> Insufficient state support further compounded these challenges. The 1960s revealed particularly dire circumstances in Yugoslavia, with a significant percentage of mothers not receiving any financial support from the other parent. The absence or denial of such financial assistance often resulted in severe poverty for these families. Financial difficulties, coupled with the complete lack or inadequate care from the non-custodial parent, were some of the challenges children faced following their parents’ divorce. The situation was even more unfavorable for extramarital mothers and their children, who faced harsher economic conditions and even less support from fathers. During the 1960s, the majority of women in Yugoslavia who gave birth out of wedlock either had no school at all or had only completed elementary school. An analysis conducted in 1962 revealed that out of 33,972 mothers with illegitimate children, 12,938 had no formal education, 17,075 did not finish primary school, and 2,549 had only finished primary school.<sup>45</sup> Many of these women were also unemployed<sup>46</sup> and dependent on others, often living with their children in extended families that included grandparents. Among these women were also minors who became mothers. Bearing children out of wedlock was still considered a source of shame in many parts of the country, particularly in rural regions, and no law succeeded in mitigating the stigmatization of these children and their mothers. The non-acceptance of children born out of wedlock, especially in rural areas, is evidenced by the derogatory terms used to refer to them, such as “bastard, whoreson, by-blow,” etc.<sup>47</sup> Unmarried mothers frequently faced housing difficulties, and due to challenging economic con-

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44 Tomanović, Ljubičić, Stanojević, *Jednoroditeljske porodice u Srbiji*, 17. Tomanović highlights the issue of residential deprivation following divorce, which is often associated with moving to poorer housing and neighborhoods. *Ibid.*, 18.

45 IAB, KDŽ, k. 8. Meeting on the establishment of a specialized institution for the protection of mothers and children, 1971.

46 In the early 1960s, approximately 41% of unmarried mothers were housewives, 25% were workers, mostly unskilled, and 20% were farmers. IAB, KDŽ, k. 5, 1962. In 1965, 33,745 children were born to single mothers in Yugoslavia. That same year, 12,000 of these mothers were unemployed. IAB, KDŽ, k. 8. Meeting on the establishment of a specialized institution for the protection of mothers and children, 1971.

47 Marina Novakov, „Odnos prema neplodnosti i vanbračnom rađanju u srpskom selu”, *Sociološki pregled* 2/2010, 342.

ditions and the lack of financial or other forms of support from fathers, their children were often temporarily or permanently placed in foster care.

### *Conclusion*

The transformation of family legislation and the introduction of new laws in the 1960s in Yugoslavia were insufficient to completely overcome the discriminatory practices and ensure continuous support for all children by both parents following a divorce. The position of children born out of wedlock was even more precarious. Everyday life revealed very low paternity acknowledgment rates for children born out of wedlock, with the identity of the father often unknown, which made the provision of maintenance for these children even more challenging. Although legally equal in parental rights, in practice, mothers and fathers often did not share responsibilities following divorce. Yugoslav judicial practices throughout the socialist period indicate that in the majority of cases (over 70%), mothers were given custody after a divorce, with minor variations by year. Cases of non-payment or irregular payment of alimony, which were not uncommon in the 1960s, exposed women and children from such marriages to discrimination, contrary to the intentions of the legislators and government policies. The result was the impoverishment of women and children in these families. Among women's organizations and social services, there was a prevailing view that the existing laws regulating alimony issues were neither precise nor sufficiently effective. The inconsistent application of the law in practice, along with many other contributing factors, created this situation. Research conducted in various parts of Yugoslavia revealed that a significant percentage of women did not even request alimony for their children after divorce, often due to a lack of awareness of their legal rights, despite the efforts of the state and women's organizations to educate them through the press, lectures, and social institutions. A particularly problematic issue was the behavior of many fathers following a divorce, who employed various means to avoid their obligation to provide alimony for their child or children. Conversely, when determining the amount of alimony, courts primarily focused on the financial needs of the child, largely disregarding the full value of the custodial parent's work in the child's upbringing. The alimony determined by the courts often covered only a fraction of the child's actual needs. Women's organizations highlighted the lenient sanctions prescribed for individuals who failed to pay alimony, noting that even these were rarely enforced. They also pointed out that the law's provisions regarding child support were too broadly formulated. Additionally, the poor coordination between courts

and social work centers, and the short deadlines given to guardianship authorities for submitting reports on the living conditions of children with their parents, which often resulted in incomplete reports, compounded the problems related to alimony in Yugoslavia in the 1960s. All these factors contributed to the undermining of the legislator's intentions, with only a small percentage of children fully realizing their right to maintenance after their parents' divorce or in cases of birth out of wedlock.

### Summary

The Yugoslav experience demonstrates that a favorable legal framework alone was insufficient to ensure the regular provision of maintenance for all children following their parents' divorce by the non-custodial parent, who was legally obligated to pay alimony in proportion to their means. The situation was even more challenging for children born out of wedlock, as the low rate of paternity recognition made securing support for these children more difficult. Various studies and surveys from the 1960s reveal that the majority of non-custodial parents, typically fathers, either did not pay child support or did so sporadically and irregularly. Attempts by fathers to evade their obligation to support their children after divorce were not uncommon. Many mothers did not seek alimony for their children after divorce, and some were unaware of the rights to which they were legally entitled. Furthermore, legal sanctions for individuals who failed to provide maintenance were rarely enforced. The lack of cooperation between courts and social work centers in trials, along with the prolonged duration of litigation related to child support, exacerbated the situation. Court-ordered alimony often covered only a small portion of the costs required to support the child.

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## Резиме

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### МАРГИНАЛИЗАЦИЈА ДЕЦЕ РАЗВЕДЕНИХ РОДИТЕЉА И ДЕЦЕ РОЂЕНЕ ВАН БРАКА: НЕКИ ПРОБЛЕМИ АЛИМЕНТАЦИЈЕ У ЈУГОСЛАВИЈИ 60-ИХ ГОДИНА

**Апстракт:** Законодавном делатношћу југословенске државе у времену раног социјализма афирмисана је равноправност родитеља у правима и обавезама према деци. То је у раду аргументовано приказом закона који су правно регулисали односе између родитеља и деце, статус деце из разведених бракова и деце рођене ван брака, те питања њиховог издржавања. У тексту се разматрају проблеми везани за остваривање законског права на алиментацију за децу разведених родитеља, те ванбрачну децу кроз свакодневне праксе шездесетих година у различитим деловима Југославије.

**Кључне речи:** алиментација, развод брака, ванбрачна деца, самохране мајке, судске праксе

Југословенска искуства сведоче да повољан правни оквир није био довољан да се свој деци након развода родитељског брака обезбеди редовно издржавање од стране родитеља којем након одлуке суда дете није било додељено, али који је сразмерно могућностима имао законску обавезу плаћања алиментације. Позиција деце рођене ван брака била је још неповољнија, јер је услед ниског признавања очинства обезбеђивање издржавања за децу било још теже. Различита истраживања и анкете из шездесетих година откривају да већина родитеља, најчешће очева, није плаћала алиментацију за своју децу, или ју је исплаћивала повремено и нередовно. Покушаји очева да након развода брака на све могуће начине избегну обавезу издржавања деце нису били реткост. Многе жене након развода нису тражиле алиментацију за своју децу, а неке нису ни познавале права која су им законски припадала. Са друге стране, санкције предвиђене законом за лица која нису давала издржавање, биле су у пракси ретко примењиване. Недовољна сарадња судова и центара за социјални рад у судским поступцима, дуго трајање парничких поступака око издржавања деце још више су компликовали постојеће стање. Судски одређене алиментације често су покривале само мањи део новчаних средстава потребних за издржавање детета.