



The Image of Women Life Through Documents of the Sharia Court in Sarajevo 1878-1914


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Abstract: In this paper, the author depicts a woman's life through the documents of the Sharia Court in Sarajevo and points out the reasons for her appearance in front of a kadi. The text analyzes the available documents in which women are plaintiffs or defendants, and through their examples, the author tries to point out the changes, especially for Muslim women in everyday life during the Austro-Hungarian rule. The paper also provides exact data on the number of married and divorced cases in the Sharia Court in Sarajevo in the period 1885. – 1907., 1911. and 1913. Special attention is given to divorces, the right to personal property, the right to care and alimony. The paper shows the position of women at the crossroads of two kingdoms through a image at the local level.

Keywords: Bosnia and Herzegovina, women, Sarajevo Sharia Court, property, the right to care, alimony wedding, divorce.

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Introduction

While the women are an unavoidable element of social existence, Muslim women are most frequently unspoken about in Bosnian-Herzegovinian historiography or only mentioned marginally, and texts about them have only been emerging in this recent period.¹ This is mostly reflected in the world's current sources of historiography that the young historians are trying to follow.² However, I must emphasize that a significant number of works that talk about the Bosnian history of this time and especially about Sarajevo have been published in Bosnian and other languages, and if they mention women, they are observed mainly through the male point of view.³ I need to point out that their word and role from this perspective is mostly bypassed due to a lack of sources. For this reason, and also because of the fact that much more space is needed aside of this article, I have reduced the theoretical framework and analysis of previously published works to a minimum in order to leave as much space as possible to real-life examples and thus give women space to point out their position and the time they lived in. I am standing by the opinion that concrete examples will be an incentive for future analysis, a comparison with what has been known so far, as well as new theoretical discussions.

In this paper, I will try to point out one segment in a woman's life, specifically through the preserved documents of the Sharia Court in Sarajevo after the Austro-Hungarian occupation. Through specific examples, I aim to show how the life of Muslim women in Sarajevo took place after the "departure" of the Ottoman Empire, additional to whether the post-Ottoman legacy of rights was clearly defined, and whether women managed to exercise their rights. Through this prism, the reason for the appearance of women as plaintiffs or defendants before the kadi will be illustrated. Thus, I will explain further with at least one part of their everyday life, and make them visible within that con-

1 Exceptions are some works that we can consider to be pioneer in endeavors in the illustration of the role and life of women in Bosnia during the Austro-Hungarian occupation and administration, such as: (Beljakašić-Hadžidedić 1997); (Giomi 2015); (Jahić 2017); (Younis 2018); (Kasumović 2007); (Kasumović 2018).

2 There is a large number of immeasurably important works that deal with the position and role of a woman in Ottoman and post-Ottoman periods in all parts of that empire. Some of them address the issue of women in the Balkans and are crucial in order to understand a woman's life. (Giomi and Zerman (ed.) 2018); (Faroqhi, 2002).; (Giomo, 2021.)

3 Sources that use numerous works written about Bosnia and Sarajevo are mostly travelogues, press, or archives of official institutions. Unfortunately, very few documents are written by a woman's hand or convey their direct opinion in those documents.

text. The analyzed available documents form just a small part of the total archive of the Sharia court in Sarajevo, but the rest of it is still uncategorized or has been completely lost during wars, fires, and inadequate storage.⁴ Nevertheless, the available documents provide a clear insight into the specific events due to which women were the main parties in front of the Sarajevo kadis.

Before I start with specific examples, it is necessary to indicate the time and life specificity of the period I am covering in this. Although the departure of the Ottoman state was observed as the departure of Sharia legislation for non-Muslim residents, it was not entirely true in practice. Namely, during the last decades of the Ottoman administration, significant legislative reforms were carried out. In accordance with the Vilayet Constitution from 1865, there were supposed to be established civil, as well as professional courts, such as the Commercial Court, where Councilors from all religions and Bosnian Vilayet participated in their work and decision-making (Aličić, 1983:59, 136, 225-226; (Skarić, 1985: 236). Living in Bosnia and Herzegovina during the Ottoman rule implied constantly being on the imaginary border between tradition and modernization, strict rules of belonging to the East or the West, and a constant struggle for their supremacy.

In 1878, when Austro-Hungary occupied Bosnia, the envisaged reforms had not yet been completely implemented. The establishment of a new government also meant the establishment of a new judicial system.

Immediately after the occupation, the Land Government, as the highest administrative authority in Bosnia, started with the establishment of new courts, proclamation of new laws and reconciliation of powers of the new judicial bodies. Although the Austro-Hungarian empire was cognizant of its inherited obligations on existing conventions, it was decided that Sharia law and Sharia courts remained constant, connecting them exclusively with certain private issues related to the Muslim population. Such division of powers was officially defined in 1883 when the Sharia courts obtained the name District as Sharia courts. The name itself clearly indicated that Sharia courts have become

4 In the Historical Archive of the City of Sarajevo is located a part of the preserved material of the District Sharia Court in Sarajevo. However, the fund is not ordered and only one small part, a total of 6 boxes, is available and it possesses analytical inventory. Also, in the Defter Collection of the same archive defter No. 202 is found, kept by the Sarajevo kadi, in which there are several records that refer to women. See: (HAS, KŠS); (HASA FD).

only a part of the District courts.⁵

The judicial system was organized in such a way that as the first instance authorities operated the District courts, within which there was a division into Civil and Sharia courts. Although each employee of the District, Civil, and Sharia Court knew exactly which tasks and duties belonged to them, the division of tasks and duties was assigned and controlled by the district judge. Regarding the secondary authority for Sharia courts, it was represented by the Sharia Court II petitions, which in 1883 was renamed as the Supreme Sharia Court in Sarajevo (Karčić, 2011:124).

Austro-Hungary used the time from the occupation until 1883 to familiarize itself with the Sharia regulations in Bosnia and Herzegovina, to appoint kadis to the Sharia Court II petitions, who had been checked and proved to be loyal, with whose help the staff in the District sharia courts was later chosen. By the order published on 29 August 1883, the work and scope of Sharia courts in Bosnia and Herzegovina under the Austro-Hungarian monarchy was defined. As a model for defining the legal system in Bosnia and Herzegovina, the Monarchy used legal systems from colonies with majority Muslim population (Bečić, 2017:60).

Although there was an established strict division of the judicial jurisdiction, based on religious grounds, non-Muslims could still claim their rights exclusively before the District Court. This particularly refers to "women's issues", as in the power of the Sharia Court remained an exclusive jurisdiction over certain private issues of Muslims. It was these private issues, such as marriage, divorce, marital disagreements, custody etc., that were the basic problems in which one of the parties was always a woman. With such division of authorities according to religious grounds, confusion was created that was noticeable throughout the entire period of Austro-Hungarian rule in Bosnia and Herzegovina. As demonstrated in the documents themselves, it was extremely difficult to determine a boundary between private and public, and also what person women were supposed to contact for the solution of a particular problem. What brought an additional level of confusion was the pending issue of whether one court was responsible for the entire lawsuit or only a part of it?

The Sharia Court in Sarajevo was one of the 48 inherited Sharia courts in Bosnia and

5 We want to point out that this work is solely from a historical and social perspective and has no intention of dealing with Sharia law or interpreting judgments in relation to fiqh provisions.

Herzegovina from the period of Ottoman rule (Imamović 1997: 209-210). The entire Sarajevo district belonged to this court, and by the number of employees, consisted of kadis, interns and clerks it was the largest in terms of the scope of work. During the occupation of Sarajevo in 1878, the building of *mehkema*, the Sharia Court building, was completely burnt down, as well as the entire documentation kept there. This did not mean only the loss of adequate space for resolving very important issues, but also the impossibility of accessing and checking essential data from documents and archives of the Court that disappeared in the flames.⁶

Since the building was completely burnt down, the premises of the Sharia Court had to be relocated. We do not have exact data about where the Sarajevo kadi worked until January 1888, when the Sharia Court in Sarajevo moved to house no.101 in Ćemaluša Street. (Sarajevski list, 1888: no.13: 2). The Sharia Court did not stay there for long, and four years later it was moved to the Ruždija building, which was relocated to Halilabašića Street, no.8 in Kovači. (Bošnjak, 1892: no. 50: 3). The Sharia Court conducted its business operations at the same address for the following several decades.

When analyzing the available documents of the Sharia Court in Sarajevo, it is clearly seen that the main problem why women came to the Court was the issue of divorce or the return of their property that they had brought with them as a dowry. Other problems are mentioned in a much smaller extent, such as custody of children, declaring adulthood, purchase and sale of property, etc. By comparing the documents of the Supreme Sharia Court and the newspaper/magazines, we also discover the problems of prodigality and execution. (Younis, 2018). It is important to highlight that the Sharia courts were obliged to keep records of deceased Muslims, and to submit those records to the Supreme Sharia Court on a semi-annual basis. These documents, apart from age and the cause of death, provide insight into the property status of deceased women, but also provide us with key information about their social status. (ABiH, VŠS, E, box no.82, 1/1896)

Considering the available documents, it can be concluded that the key problems why women went to the kadi were related to the defining of their marital issues, but also other incidental issues and problems imposed by everyday life.

⁶ In 1888, the building of Sharia Court in Zvornik was burnt down with its complete archive and land registry.

Defining of Marital Union

Every Muslim marriage began with its initiation before the kadi, as defined by law. However, before the conclusion of the marriage ceremony, it was necessary to confirm whether people who wanted to get married are eligible. Thus, if a person is from a different district than the kadi, it was necessary first to obtain a confirmation from mukhtar, stating whether the bride was already married or not.⁷ If the bride was divorced or widowed, it was necessary to prove that a period of three months, stipulated by Sharia, had passed since the divorce or the death of the husband.⁸ The certificate was obtained from the main Sharia Court. At the same time, the groom had to obtain a certificate of completed military service.⁹ In addition, the bride and the groom had to have witnesses that certain prohibitions stipulated by Sharia did not refer to them. It is important to point out that the marriage ceremony was taking place mostly without the presence of any women, including the bride. The available documents do not reveal certain case where a woman personally attended the wedding. That can be interpreted as part of the tradition where the bride is waiting in her parents house, celebrating with her closest and loved ones the arrival of the wedding guests who would be taking her to the groom, where the celebration continued. However, it is clearly confirmed that this was only a custom considering that when seeking a divorce, women not only attended but most frequently initiated the divorce litigation.

Between the weddings and divorces, and related to marital disagreements, women appeared in front of a kadi with complaints against their husbands due to intolerance, abuse, financial problems, but also because of leaving the marital union. The available documents of the Sharia Court in Sarajevo disclose interesting specificities of each of the mentioned cases, all of which had the same final goal, to prove the injustice com-

7 In such cases, the kadi of the Sharia Court, where the request for the wedding was received, requested in written form from the kadi of the district to which the bride belonged, according to the competences, the certificate about existence of any obstacles for the marriage.

8 As an example, we will mention Nura H. who concluded her first marriage in Sarajevo, and after the divorce she returned to her parents in Visoko. A year later, she wanted to get married again in front of the kadi in Visoko. In order for everything to be legal, the kadi from Visoko asked a response from the kadi in Sarajevo whether Nura was divorced and when, with the aim to establish the time passed. The kadi from Visoko was waiting almost a month for the response after which he could conduct the wedding of Nura and her new chosen one. (HASA, ŠSS, box no.1, 1.4.38)

9 In cases when the groom did not perform military service, the marriage, regardless of whether it was concluded regularly in front of the kadi or not, was not recognized. HAS, ŠSS, box no.3, 2.10.3.; HAS, ŠSS, box no.2, 2.10.86 19.11.1890.

mitted to them and based on that to get a divorce.

It is interesting that the problems in marriage were voiced in detail mostly by women, while if men complained about their wives, they only stated that they were “left” without providing details. The case of Alija D. who first sued her husband for selling her entire property represents the real picture of a position of women even if they had certain tangible property. Documents indicate that most women who inherited some small movable or immovable property gave a power of attorney, voluntarily, to the husband to manage that property, after which he would use it and sell it. A significant number of cases, in which the defendant is the husband, is due to the sale of his wife’s entire property based on her power of attorney, is found in the available documents of the Supreme Sharia Court. (ABiH, VŠS, E, box no. 45, 23/1885; ABiH, VŠS, B, box no.18, 6/1891; ABiH, VŠS, B, box no. 20, 24/1895; ABiH, VŠS, E, box no.86, 2/1898) How widespread this occurrence was is best illustrated by the fact that even in the very small scope of available documents of the Sharia Court in Sarajevo, there are several such cases.

The already mentioned Alija is one of the first available cases in which the husband was reported for the sale of the wife’s real estate without her permission, but also because of physical abuse. The first lawsuit for abuse and reimbursement of funds from the sold property dates back to March 1881 and it was addressed to the Sharia Court in Sarajevo (HAS, ŠSS, box no.1, 1.2.22). However, the kadi rejected her lawsuit after a few months. Subsequently, she contacted the District Court, which also rejected her lawsuit and forwarded the files to the Supreme Sharia Court, which then returned the files to the Sharia Court in Sarajevo for reconsideration. In the lawsuit filed by Alija to the District Court, it is clearly stated that her husband Salih had sold the real estate that was her property. In order to prove this, she brought six witnesses before the kadi who confirmed that the property was exclusively hers. However, her husband Salih did not stop there, but he expelled both her and their child that was only several months old, from the house. The value of the property that her husband had sold totaled 4,250 groshens and Alija demanded that amount of money to be paid to her. She also demanded the legally stipulated care for her and the child.

This lawsuit is especially important because it is one of the rare ones in which the plaintiff complained in writing not only about her husband and his relationship towards her,

but also the position of women in general. Alija openly and clearly writes that “in our Sharia, women very rarely have the right compared to husbands because we are not free as in other countries but we are worse than slaves...” She does not stop there but emphasizes the problem of sale of a woman’s property after which she would be “expelled” from home to “wander around looking for happiness when her husband took away everything.” In addition, she writes that this was a very frequent, mass occurrence that can be considered a “custom”. Alija was obviously familiarized with other cases where women, regardless of their legally stipulated rights, remained unprotected. She corroborates that by her example, stating that she was complaining about her husband for three months, who was also a drunkard, instead of protecting her property, which at that time was still there, the kadi did nothing. Thus, her husband was given extra time to sell out everything that remained of her property. If we take a look at the dates from the first lawsuit to the verdict of rejection by the District Court, it is visible that Alija appealed for the entire 10 months, but that her rights were not granted to her even after that. Being aware of her helplessness and inequality, she wrote during a lawsuit in October 1881 that they had protected Salih, her husband, who was a drunkard and also an “indolent man”, and “the two of us fragile” were left to “perish from all this trouble” (Ibid).

The analysis of Alija’s lawsuit and/or complaint demonstrates an extremely important segment of a woman’s life - the security of her personal property. She was obviously a literate woman with certain property in her possession and she was aware of her rights which distinguishes her from many women, who did not have the possibility or courage to fight for their position. The fact that she refers to women in “other countries” confirms that. Considering the date when Alija first complained about her husband was at the beginning of 1881, I can conclude that this practice has been established in everyday life even before the occupation, more precisely, when the kadi had authority not only over private, but also over property issues. The extent of how paradoxical that has been is indicated by the information that Alija wrote down that her husband was a drunkard, that he violated the Sharia rules of living without any reprimand. In addition, the unnecessary sale of the property was strictly prohibited and defined by a provision on prodigality, which became effective on the day of its issuance (Younis, 2015: 81-104). However, it is obvious it was much harder for women to exercise their rights, even if they fought for them. Moreover, the question is if women like Alija had faced so

many obstacles, what was the case with illiterate women who did not know their rights and did not have the opportunity to fight for them?

Although Alija emphasized the problem of the sale of her property, her statement about physical abuse by her husband reveals another major problem that she faced. The specific request for divorce due to abuse is quite often mentioned in the documents. Even in the partially preserved material of the Sharia Court in Sarajevo, numerous cases witness that. Fata B. complained about specific physical abuse by her husband in March 1882. She clearly stated that she had been married for five months and that her husband had been beating her all that time “every day, and I was not guilty of anything”. Unfortunately, that was not all. Apart from the physical abuse, Fata argued in the lawsuit that he “did not take care” of her at all, so she was mostly “hungry”. That is why she asked the kadi for divorce. In the following document, it is visible that her husband Mušan P. was summoned to court for a “final divorce”, which indicates that Fata most likely managed to get the requested divorce. (HAS, ŠSS, box no.1, 1.2.13) Namely, the very form of the “final divorce” was mentioned in the documents only after the hearings and the decision to carry out a divorce. Unlike Fata, Arifa S. was one of the women who left the marital union due to verbal abuse. She left her husband Mehmed B. because, as she stated, he “treated her absolutely discourteously and inhumanely continuously”. (HAS, ŠSS, box no.1, 1.2.28) She did not mention physical abuse but verbal abuse, and she wrote down that she wanted to “avoid daily quarrels”.

Regarding the physical abuse, it should be considered that a large number of women did not file a lawsuit in the court and that most certainly physical abuse was even more widespread than it can be demonstrated in the documents.

Women had to fight against the system of authorities that Austria-Hungary administered not only by religion but also by legal issues. This specifically implies the issue of jurisdiction and informing the residents about which issues fall under the jurisdiction of certain court, and whether to address Sharia or civil court regarding certain issues, who will render the verdict in the fastest manner, what was the most important to women etc.

Mehmed's daughter Fata has been lost in the system of authorities, who “went from the police to the kadi” trying to find out who was competent to solve her problem with her husband. (HAS, ŠSS, box no. 1, 1.2.69) Considering that both, the police and the

kadi, told her that they don't have the competence, she addressed the District Court, which reiterated the same as the previous instances. However, Fata insisted on filing a lawsuit, and then they send it to the competent institution. In the lawsuit she stated that she had been married for an entire year, but her husband had left her with her parents after three months, although she was already pregnant at the time. Fata did not complain until baby arrived and was supposed to be fed in the poor living conditions of her parents in the Gorazde district. It ensues from the lawsuit that Salih Kapetanović, the father of the child and her husband, had not asked about them during those months, nor did he send any money for their support, which he was obliged to do by law. Fata claimed that her husband had enough money because he worked in the "civil service", but after the conducted checks, the kadi found out that Salih had been fired from work. This did not mean that he was not obliged to pay care of his wife and child, but in that situation, it was more difficult to do so.

Although each divorce had its own specificities, in the largest number of cases when women demanded a divorce and the husband did not agree, the procedure was long and often never resolved. In the years of mass migration, divorces were more frequent, and the left wives were trying to find at least some safety in new marriages new marriage.

Given that the problem of poor abandoned women, often with children, had become apparent, the Government had tried to connect the issue of travel permit with the data about who remains in Bosnia and who will look after that person. Thus, if someone from the family did not guarantee in written form that they would take care of the woman, the issuance of permits and passports for those who were leaving their wives was stopped. However, this provision was adopted rather late because in the first years after the occupation, many women were left alone without any finances. One of them was Ašida M. whose husband had left in 1878 and moved to Istanbul. After four years, he sent her a message through his friends, who had returned to Sarajevo, that he divorces her. She immediately contacted the kadi with a request to divorce her because, as she stated, her husband Smail bey T. "neither wants to take care of me nor does he want to live with me as a husband and wife". She listed the names of the witnesses who were ready to confirm that he said he was letting her go, which was supposed to be enough for the kadi to officially divorce her. In the same request, she clearly stated that after the divorce, "she will take another husband and marry him" (HAS, ŠSS, box number.1, 1.2.34).

Aiša Š. was also left alone, but she was waiting entire 7 years to contact the kadi for divorce. Immediately after the occupation, her husband Mehmed moved to Thessaloniki. She stayed and lived with his family, however, after 7 years, Aiša found another husband and decided to leave the family of the husband that had left her. In her first request, which she filed to the Sharia Court, she stated that she could no longer stay at Mehmed's parents' house, where his parents, six sisters and his brother lived. Since she failed to get a divorce as planned, Aiša again contacted the Sharia Court stating that she did not know whether Mehmed is dead or alive.¹⁰ In that letter, she stated that she wanted to marry another person. She also wrote that the reason for his departure to Turkey was to escape from the numerous debts he had due to excessive alcohol consumption.¹¹ If the Court finds him, she asked to "inform him that I will no longer accept him as my husband and that he should completely leave me alone because he had left me in a rude way without any assistance." (ABiH, VŠS, E, box no.54, 4/89; ABiH, VŠS, E, box no. 105, 22/03) At the time of writing the second request, which she had also addressed to the Government, she was already living with her mother and brother. The Sharia Court checked the allegations she stated and found out that Mehmed was alive and that he had written to his parents, which meant that he was not dead, and that his whereabouts were not unknown. In that case, she could only ask of him to provide care for her, but not a divorce. Whether Aiša, as many women in that period, decided to start a new life with a new husband without official divorce from the first one, is difficult to establish. However, the documents of other Sharia courts indicate that such practice was gradually put into effect.

On the other hand, there are available documents that testify that women were also accused of leaving the marital union and that lawsuits were filed by their abandoned husbands. In such cases, the husband asked the kadi to return his wife forcibly, and if that was not possible, then she was declared a disobedient woman, *nashiz*, thus losing the right for care. In such disputes, the property issue was usually the most problematic. If they did not take all their belongings with them, they insisted on getting them via court, and if they took everything they considered theirs, then the husbands file

10 In that letter, Aisha wrote that she did not have any information about her husband for three years, so it is possible that he is dead because she "heard that 3 years ago he was hit by a car". (HAS, ŠSS, box no. 4,4.13.60)

11 "Since my husband is a drunkard and very negligent of me, I don't think I am obliged to consider him my husband and I want to divorce him in any way. I must finally notice that my husband fled to Turkey as a criminal without a passport." This was written in Aiša's application for divorce. (HAS, ŠSS, box no.4, 4.13.60)

a lawsuit for the return of things, indicating that the taken belongings are not of the wife. The Sharia Court recorded in statements in detail not only the items but also their value and gave a deadline for their return if those items concerned personal things. One of the women who left several valuables with her husband was Hasnija A. She asked from the Court that her husband returned the following: *1 baking pan, 1 glass, 2 plates, 1 basin, 1 ladle, 1 qazan, 1 copper candlestick, 2 wool pillows, 1 mattress, 1 quilt, 1 prayer mat, 1 carpet, 2 chests, 11 shirts, 7 underwear, 17 headscarves, 5 pieces of socks for women underwear, 5 headscarves, 2 Turkish sirwal made of basma fabric, 1 takum sheets, 3 female yeleks, 1 short overdress, 1 sofra towel, 1 mirror, 1 pair of female socks with slippers, 3 traditional garments and 12 embroidered handkerchiefs.* After hearing both sides, the Court ruled that Hasnija's husband had to return all items or give her money in return in the counter value by assessing everything to 98 forints and 29 coins. Although Hasnija asked for some other things, the Court concluded that she could not prove that they were her property. (HAS, ŠSS, box br.6, 6.18.161) After the discussion, Hasnija was declared a *nashiz*, thus she lost the right to a regular standard care, but that's why it was impossible to forcibly return her to her husband with whom, as she stated, did not want to live anymore. In the same year, Rabija T., who was also declared a *nashiz*, experienced a similar fate but her husband had to return her things (HAS, ŠSS, box no.6, 6.18.202). It is interesting that in the mentioned cases it was mainly about clothes and dishes, and that the kadi rendered a verdict on their return and a deadline for the execution of the verdict. However, the case of Merjema L. was somewhat different. The Court declared her a *nashiz* because she had left her husband Ahmed Ramić. However, for the property valued to 153 forints and 20 coins, as well as a house that they lived in, and was her property, the Court decided that it had no relevant jurisdiction and that Merjema should contact civil court "since the same items do not ensue from the marital relationship." (HAS, ZD, Defter no.220: 438-440)

There are rare, but still present cases, when husbands sued their wives for returning certain things that they thought belonged to them. Even rarer are the documents that indicate that women managed to get a divorce after leaving the marital union, but only with the consent of their husbands. One of them was Almasa K. She left her husband and went to live with her female friend. Four days later, her husband Salih J. contacted the Sharia Court, asking if the Court could reconcile them so that his wife could "live well and peacefully in marriage" with him. He left the kadi with the possibility to di-

voce them if reconciliation is not possible. Salih only insisted that she returned to him the things she had taken away when she left the house, which he claimed belonged to him. (HAS, ŠSS, box no.1, 1.2.9)

In order for clearer insight into the number of marriages and divorces in the documents of the Sharia Court in Sarajevo, I will outline their exact number according to years:

Year	Marriages				Divorces			
	Unresolved weddings from a previous year	Arrived marriage requests	Performed weddings	Unperformed weddings	Unresolved divorces from last year	Arrived requests for divorce	Resolved requests for divorce	Unresolved requests for divorce
1885		315	315		3	30	33	
1886		339	339			31	27	4
1887		351	350	1	4	29	30	3
1888	1	331	332		3	30	31	2
1889		376	376		2	44	44	2
1890		382	382		2	48	48	2
1891		409	409		2	58	59	1
1892		324	324		1	41	39	3
1893		333	333		3	52	52	3
1894		416	416		3	77	77	3
1895		376	376		3	71	73	1
1896		354	354		1	62	55	8
1897		444	444		8	87	90	5
1898		404	404		5	87	92	
1899		334	334			61	57	4
1900		380	380		4	46	50	
1901		393	393			59	57	2
1902		383	383		2	54	54	2
1903		430	430		2	75	73	4
1904		442	442		4	68	71	1
1905		467	467		1	94	90	5

1906		457	457		5	102	107	
1907		510	510			100	100	
1911		513	513			106	106	
1913		497	497			104	104	

Table 1, Based on annual Statements of the Sharia Court in Sarajevo filed in the documents of the Supreme Sharia Court

Before moving onto the analysis of the data offered by the table above, it should be pointed out that in other Sharia courts in Bosnia and Herzegovina, unresolved cases of weddings and divorces were very rare.

So, the Sharia Court in Sarajevo was specific for unresolved, certainly complicated cases of divorce, but also marriage. However, in observing population diversity, number and cultural modernization, it is expected Sarajevo would have a larger number of *complicated* cases. What is remarkable is the increase in the number of divorces in the period of 1885 to 1913. While in the first year, there is a total of 30 divorce applications, less than three decades later that number increases to a total of 104. Looking at the number of marriages can be found that the percentage of divorces in relation to marriages rose from about 10% in 1885 to about 20% in 1913. Consequently, the issue of divorce was extremely important, and it became an obtrusive part of the life of women in Sarajevo. The number of unresolved divorces is also significant, with some cases remaining unresolved for years. If I compare this with other Sharia courts, where divorce litigations have been postponed over several years, a significant difference is detected between life in Sarajevo and life in other places in Bosnia and Herzegovina. I can only assume that these divorce applications were filed by women and that the husbands simply did not want to agree to it, or he was not in Bosnia and Herzegovina at all, and it was impossible to prove his death.

Other Problems

Women did not only appear in front of a kadi only in divorce cases. Family problems after divorce were directed mainly to the maintenance support of the ex-wife, but also the children. Whilst children belonged to the mother, certain examples indicate that the father could have asked for children to belong to him if he was married and if there was someone who could take care of them. Such was the case with Salih D., who re-

quested to stop paying alimony in April 1882 because, as he stated in the explanation, got married in the meantime, and he considered that the child could live with him. (HAS, ŠSS, box no.1, 1.2.42) After the divorce, his ex-wife Almasa had a child, who was three years old at the time of Salih's request. Until then, Salih was paying the alimony regularly through the police, but after the wedding, he considered that he was no longer able to pay that amount. In order not to leave the child without any income, he suggested taking the child to live with him. Unfortunately, I do not have any information concerning how Almasa, the child's mother, reacted to this request and how this request was resolved.

Some cases indicate that not all fathers were paying alimony in a timely fashion, and according to the verdict, if such complaints occurred, the Sharia Court requested the seizure of property in order to collect the alimony stipulated by law.

In the documents, claims existed requesting an increase of alimony. The mentioned reason behind it was the increase of the price of groceries, but also the additional costs of child development, which by itself required higher costs. Widows with minor children, who were appointed a guardian, also encountered this problem. They had to ask the Court to allow an increase in the amount of monthly income from property that was theirs, but which they could not manage until the children were declared adults. (Younis 2018: 45-67)

Extremely rare disputes within Sharia courts refer to *illegitimate* children. The case of Čevija, the mother of an illegitimate child, is even stranger as she was married before, during pregnancy and even after childbirth. Namely, in 1883, her request reached the city headship so that they could take over the custody of her *illegitimate* child. (HAS, ŠSS, box no.2, 2.8.67) She stated that she is ill and unable to take care of the child. Back then, she wrote that the child was given for "feeding and upbringing" to a certain Mehmed M. After checking the allegations, the city headship rejected her request, claiming that she was not ill and that she was capable to support her child. Two months after the rejection by the city headship, Čevija or Đevka, as she is also named, agreed with Hussein A. that she renounces her child and that she gives the child to him and his wife, provided that they adopt him when the child becomes an adult. The agreement was also signed by Tahir-bey Č. who, according to Đevka, was the father of the child. In a submission by the police, it is stated that Đevka's legal husband "hesitates to support

the mentioned child". (HAS, ŠSS, box no.2, 2.8.195) So, Đevka clearly stated before the Court who the real father of the child was, and who her husband was. The entire procedure was completed by the police that further officially informed the Sharia Court in Sarajevo about the settlement and its conditions.

Other disputes in which women appeared in front of a kadi mainly referred to the purchase and sale of real-estates, declaring of adulthood, insanity, spendthrifts or because of the certification of documents, writing a will /*vasijetnama*/ or *vakufnama*; or simply the need for some lost documents.

A special problem when looking for documents was the fact that the Sharia Court in Sarajevo was completely burnt down during the occupation. Women, as well as other petitioners of various certificates and copies, had to bring witnesses with them to prove that the document they were looking for was indeed proper. The problem would arise if a person was not in Bosnia or if they did not have any living witnesses.

Declaring adulthood was extremely important because a person would automatically acquire the right to manage their personal property, but also the right to make decisions in all necessary situations. Many women were already married even before they received the certificate of adulthood, and their husbands mostly insisted on declaring adulthood. That was a prerequisite to request a power of attorney to manage her inherited property.

Speaking of spendthrifts and insane people, I have to mention that the processes were quite detailed and that their outcomes were published in the official magazine *Sarajevski list*. By doing so, the population was informed that a certain person was not able to manage their property and that their signatures or agreements would not be accepted and/or abided by. (Sarajevski list, 1911, no. 263: 6) By looking at the available documents in their entirety, I can say that the kadi rarely declared a person insane. The procedure would begin with the reporting of such a person, and the kadi would request a special assessment from the hospital before making a decision. When it comes to spendthrifts, I have to say that the analysis indicates that men were more often declared spendthrifts than women.

In the documents of the Sharia Court in Sarajevo, I also find women as signatories of *vakufnama* and wills which were certified, but also composed in the Sharia Court in order to be legally binding. It is interesting that the government had specially request-

ed that duty stamps are placed on these documents as well, which means that their signatory to pay a certain amount of money. However, the Sharia Court in Sarajevo insisted that this type of documents was made based on religious regulations and that there was no need to place *duty stamps* on those documents. (HAS, ŠSS, box no.6, 6.17.57)

In the end, I will mention the case of Atija T., not a common case, but a case that demonstrates in a picturesque manner the key changes in the relationship of women towards the Sharia Court. Principally, as it is recorded in the documents, she was very loud during the hearing due to the auction in the inheritance proceedings before the kadi; moreover, she insulted the Sharia Court “by pronouncing indecent words”. Due to the foregoing, Atija was sentenced to two days in prison as a “disciplinary punishment”. (HAS, ŠSS, box no.5, 5.15.253)

Conclusion

The changes that emerged by the Austro-Hungarian occupation impacted the lives of all the inhabitants. However, women as a particularly sensitive category of the population experienced these changes with more noticeable difficulty. While the available documents of the Sharia Court in Sarajevo are only fragmentary, they still provide us with enough data to indicate the key reasons for the appearance of women before the Court and thus clarify one segment of their everyday life. Life in post-Ottoman Bosnia created confusion especially in the case of solving private problems of Muslim women. Numerous stereotypes about the life of Muslim women and their lifestyle are denied by specific examples. The examples mentioned in the text have clearly pointed out that women without hesitation or any traditional obstacles went to the Court and appealed in person.

The problem of physical abuse was more widespread than can be proven through the available fragmentary documents. However, the fact that women sought protection from the kadi clearly shows that they knew their rights and did not refrain from seeking them. They are clearly looking for a way to get out of violent marriages in which they are not satisfied. Of course, this is seen much more in urban than in rural areas, which is also confirmed by the material of the Supreme Sharia Court. These examples also show that sharia courts have been very important in solving social problems and

that they supported (as much as the legislative allowed them to) the most vulnerable in the population, especially women.

The examples distinctly point out that before the Sharia Court in Sarajevo, women were present in the Sharia courts due to numerous reasons imposed by everyday needs and living conditions. Many women have tried to exercise their rights multiple times, but the documents suggest that they did not give up and that they openly pointed out mistakes and a way of life that they would not tolerate. So Arifa S. left her husband Mehmed after he started abusing her. She declared before the kadi that he had acted “inhumanely and discourteously”. Whereas Alija D. clearly claimed her rights and the payment of property that her husband had sold out, pointing out the injustice that was done to women in Bosnia, which according to her was not present in other states.

As each appeal and/or a lawsuit is specific, I believe that what has been stated therein indicates in great detail the relationships in marriage, various physical and material abuse, but also the position of women in general in the post-Ottoman Sarajevo and Bosnia. It is important to note that the documents testify that a significant number of women were forced to oppose the hitherto practice and established customs and that they had the courage, regardless of the kadi’s verdict, to continue living and working the way they considered was right. Here, I primarily denote the fact that women, if leaving their husbands without permission, were declared *nashiz* which implied losing the right for care, but that did not affect their decision to leave the marital union completely, nor to establish a new one.

A serious difficulty represented the non-existence of clear boundaries of the Sharia courts’ authorities, and for marital problems women had to turn to the kadi, who had jurisdiction in this area, while property issues required verdicts rendered by a District Court judge. This in many aspects aggravated and procrastinated their struggle for rights. The kadis also issued decisions about prodigality, insanity, they issued marriage certificates, marriage permits, declared adulthood, and made wills and *vakufnama*. The documents of other Sharia courts as well as the Supreme Sharia Court, that were available to us for insight, indicate that women were participants in other, several years long property and inheritance litigations, but that they also appeared before the court as witnesses on various issues.

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