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“It was an awful mistake with that girl. Advise me what to do.” On Jaroslav Hašek’s bigamy

„Z tą dziewczyną to okropne nieporozumienie.
Poradź mi, co robić”. O bigamii Jaroslava Haška

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Abstrakt: W artykule zostanie rozpatrzona kwestia bigamii Jaroslava Haška z dwóch perspektyw – biograficznej i prawnej. W niemal każdej biografii pisarza pojawiają się wzmianki o podwójnym ożenku pisarza, jednak często są zbywane tylko kilkoma słowami wyjaśnienia. W opinii autorki po niemal stuleciu od śmierci Haška przypadek jego bigamii wymaga dokładniejszej interpretacji.

Słowa kluczowe: Jaroslav Hašek, bigamia, prawne postrzeżenie bigamii

Abstract: In this article, Jaroslav Hašek’s bigamy will be discussed from two points of view – the biographical and legal ones. In almost every writer’s biography, the fact of his marrying two women is mentioned, but it is also quickly dismissed with only a few words of explanation. In the author’s opinion, after almost a hundred years following Hašek’s death, the case of his bigamy deserves proper interpretation.

Keywords: Jaroslav Hašek, bigamy, legal perception of bigamy

Introduction

Jaroslav Hašek is undoubtedly a writer associated with the Czech literature as one of the most famous ones. The character created by him, a good soldier

Josef Švejk, is very often identified with the author because of similarities in Hašek's and Švejk's peripeteia – Hašek was a soldier in the Austro-Hungarian Army during the First World War, deserted it and joined the Czechoslovak Legion in Russia, in the same way as his fictional character did. Hašek also was a deputy military commander in the district of Bugulma and made his literary character, Švejk, take the same path. There are many other similarities between them both – real and fictional – persons but it is marriage that makes the difference between the two: Josef Švejk was single and he did not fail to take advantage of that fact, although Norbet Holub noticed women's secondary or even marginal roles they played in Hašek's texts.¹ When it comes to the writer, he was married and, actually, had two wives at the same time.

In this article, I would like to discuss the question of Jaroslav Hašek's bigamy from two points of view – the biographical and legal ones. In almost every writer's biography, the fact of marrying two women is mentioned, but it is also dismissed merely with a few words of explanation. In my opinion, almost a hundred years after Hašek's death, the case of his bigamy deserves proper interpretation.

A story of two ladies

Jaroslav Hašek was the kind of person who could be called a restless soul. According to his most scrupulous biographer, Radko Pytlík, his whole life was marked out by moving, wanderings and peregrination. He definitely did not suit the bourgeois model of society characteristic of the late 19th century. Encountering problems at schools, preferring losing a stable job in a bank to wandering somewhere in Hungary made him a member of artistic bohemia before he himself realized he was a part of it. No wonder Hašek at early age became a follower and supporter of Czech anarchistic movements.

Falling in love with Jarmila Mayerová, who he met in 1907, meant a significant change in his life. Jarmila's parents objected to that relationship. They instinctively knew their daughter's sweetheart was likely to bring more problems than happiness. The the writer tried to respond to the most important Mayers family's objection – unemployment – by finding a job as a journalist. He succeeded in the magazines "České slovo" and "Svět zvířat". The second one is worth mentioning for the various hoaxes Hašek invented by creating non existing animal species but his pseudo-scientific jokes soon attracted attention of real scientific societies which criticized these "discoveries" and the career of a young journalist at "Svět zvířat" came to an end. Nevertheless, a low but

¹ N. Holub, *Hašvejk a ženy*, "Tvar" 2003 No. 8, p. 5. (All the translations in the article by the author.)

stable salary Hašek was collecting during the employment was a proof for Jarmila's parents that her lover could become a groom. The wedding ceremony was held on 15 May 1910.

Despite Hašek's long efforts to get the Mayers' permission to marry Jarmila, the marriage was not an idyll. According to Radko Pytlík, the young couple moved to a house that had been a wedding present from the Mayers and at the beginning, Hašek tried to lead a quiet life, but soon "with the new power he started playing the role of a bohemian king"² as he tended to spend more time in taverns than at home. He definitely was a *spiritus movens* of numerous happenings and crazy ideas like the Party of Mild Progress within the Limits of the Law that was created as a parody of a real political party movement due to by-election to the Austro-Hungarian Parliament. Hašek's occupation with various projects and performances was so absorbing that there is no surprise why the couple split.

We have to take into account the fact that the amplest Hašek biographies were written during the communist period of Czechoslovakia and some details of the writer's life as a follower of left-wing ideas and a member of the Soviet Communist Party were not undesirable from the point of view of the then propaganda. That is why reasons for the couple breaking off is a matter of conjecture. The first possible reason is the writer's sexual orientation. According to Czech literary historian Jindřich Chalupický, Hašek was a homosexual³ who maybe did not realize this fact and that is why he never made a coming out. Even though another literary historian, Petr Kovařík, challenges this argument,⁴ Hašek's attitude towards women was far from the so-called "normal". His marriage could have been a result of a deep intellectual relationship between him and his wife and, on the other hand, a gesture towards society's conventions, perhaps enforced by Jarmila herself. The writer, focused on his addiction to writing and to alcohol, did not really understand what the essence of "marriage" was, since he lost his father when he was a child. The second reason of the separation could have been a venereal disease that Hašek unknowingly infected his wife with. Such cases were rather common in the 19th and the early 20th century bourgeois society in which the awareness of sexually transmitted diseases was in its infancy and a lot of wives' health was put to risk because of their husbands' ignorance.⁵ After the separation Jarmila Hašek spent some

² R. Pytlík, *Włóczęga Jaroslav Haszek*, tr. M. Ekhardtowa, Warszawa 1974, p. 168.

³ J. Chalupický, *Expresionisté*, Praha 1992, p. 175-191.

⁴ P. Kovařík, *Literární mýty, záhady a aféry. Otazníky nad životy a díly českých spisovatelů*, Praha 2003, p. 150-153.

⁵ See G. Gańczarczyk, "Ludzkość z ciała się składa!", czyli polskie i czeskie obrazy przygotowania dziewcząt do życia w rodzinie na przełomie XIX/XX w., in: A. Szlagowska (ed.), *Problemy zdrowia reprodukcyjnego kobiet. Wstęp do badań*, Wrocław 2016, p. 269-291.

time in a hospital and Radko Pytlík presumes that the feeling of guilt was an element which pushed him towards his real or only assumed suicidal attempt. Nevertheless, he was the father of his son Richard, born in 1912. As Jarmila moved out to her parents' and sealed the separation, Hašek met his son only several times.

The history of his second marriage is more mysterious. Hašek's biographers are not sure about the circumstances behind the meeting of Jaroslav Hašek and Alexandra Grigorievna Lvovna. Sources about the writer's military service in the Austrian Army and his being captured by the Russians contain many more details. When the Czechoslovak legions in Russia joined the Western Front in Vladivostok, Hašek went to Moscow and started cooperating with the Bolsheviks. As a soldier of the Red Army he was sent to Samara and in 1918 he was appointed the head of the army printer in Ufa. Pytlík notices that the writer met his future second wife in this city but why did the lady attract his attention? Some sources claim that Alexandra took care of Hašek during his struggle with typhus, some other stress that the marriage was a sealing of his willing to stay in Russia for the rest of his life. Nevertheless, Pytlík writes that "on the 15th May 1920 in the presence of a witness, a German communist Braum, he signed the marriage contract. He claimed that he was a single and that he had no obligation or children."⁶ The biographer continues that this fact was a definite negation of Hašek's past and the beginning of his new life in Russia at the same time. However, his attempt to hide himself away in distant Siberia failed. Hašek was sent back to Czechoslovakia in 1920 by the Communist Party to organize a communist movement in the new state. He returned to Prague with his second wife.

Bigamy or ignorance?

Even in ancient times bigamy was illegal. As a reminder we can quote Marci A. Hamilton's statement: "Polygamy has always been odious among the northern and western nations of Europe, and, until the establishment of the Mormon Church, was almost exclusively a feature of the life of Asiatic and of African people. At common law, the second marriage was always void, and from the earliest history of England polygamy has been treated as an offense against society."⁷ Katarzyna Banasik clarifies that in the 19th-century penal codes bigamy was treated in the same way as adultery. In the primeval version of

⁶ R. Pytlík, op. cit., p. 283.

⁷ M.A. Hamilton, *Sister Wives: An Illustration of Why Polygamy Is, and Should Be, Illegal*, "Verdict. Legal Analysis and Commentary from Justia", 20.7.2011, [on-line] <https://verdict.justia.com/2011/07/20/sister-wives-an-illustration-of-why-polygamy-is-and-should-be-illegal>, accessed: 12.02.2020.

German penal code from 1871, it was punishable with prison sentence up to 5 years (§171). The French penal code of 1810, in Paragraph 340, also stipulated a penalty of between 5 and 10 years of hard labour.⁸ A similar situation was in Austro-Hungary before 1914 and Czechoslovakia after 1918.

Despite Jaroslav Hašek’s understanding of the sense of matrimony, he said his marriage vow twice and the second one was with contradiction to facts. After his return to homeland he even tried to restore contacts with his first wife and wrote a poignant letter with significant words: “Jarmila, do not think I do not love you. I have always loved you. [...] It was an awful mistake with that girl. Advise me what to do.”⁹ His personal feelings had little to do with the legal status, though.

Biographical sources contain many legends and unproven statements and some of them are worth mentioning from the legal point of view. For example, the Russian version of Wikipedia did not mention Hašek’s double marriage at all. The two wives, Jarmila and Alexandra, appear as his “wife” with no explanation of the legal status of these marriages.¹⁰

Another source claims that the case of bigamy was redeemed for the lack of the Russian certificate of marriage to Alexandra Lvovna.¹¹ This explanation of extinction of bigamy requires some clarification. If a marriage contract between Jaroslav Hašek and Alexandra Lvovna was signed, the lack of a document carried by one of the spouses would not be a proof of no contract. The evidence is valid, even if it is hidden in a distant country, and the presence of a witness is an insurance that the contract was signed and approved by both sides. This argument can be rejected as an unjustifiable and stretching the rules at the same time.

Another defense line in bigamy accusation was Hašek’s proclamation that, according to Pytlík’s reckoning, the writer refused to recognize two legal rules at the same time. That means if the first marriage was legal in the light of the Austro-Hungarian regulation, it should be invalid after the fall of the Austro-Hungarian monarchy. Both from the point of view of logic and law, Hašek’s opinion was not correct. The contract signed under one legal order is valid according to principles of continuity of legal rules. We can quote “The Yale Law Journal” here: “The international law does not not generally count revolutions among those events that justify termination of existing treaty rights

⁸ K. Banasik, *Bigamia w polskim prawie karnym*, “Prokuratura i Prawo” 2010 No. 9, p. 59.

⁹ R. Pytlík, op. cit., p. 308.

¹⁰ https://ru.wikipedia.org/wiki/%D0%93%D0%B0%D1%88%D0%B5%D0%BA_%D0%AF%D1%80%D0%BE%D1%81%D0%BB%D0%B0%D0%B2, accessed: 13.02.2020.

¹¹ P. Bożejewicz, *Ponure oblicze wesolego pisarza*, “Rzeczpospolita” 17.6.2018, [on-line <https://www.rp.pl/Literatura/306149940-Ponure-oblicze-wesolego-pisarza.html>], accessed: 12.2.2020].

and obligations. This view is said – in the few instances when the question is squarely faced – to derive from the need for continuity of the state [...].¹² Otherwise, following every political change or a new state arising, a great chaos would occur with no valid rules or regulations. Hašek's double marriage is an explicit illustration of such a situation. Moreover, the Reception Act of the new Czechoslovak state declared in 1918 proclaims in Article 2 that all the current regional and imperial laws and regulations shall remain valid.¹³ This means that, according to the Austrian penal code of 1892 and, with references to §206,¹⁴ bigamy is a crime. Moreover, in §208 we can read that if a criminal concealed his or her marital status, the inflicted sentence should be hard prison, and that is exactly Hašek's case, because in the marriage procedure with Alexandra Lvovna he did not mention that he was already married. On the other hand, his plans of staying safe in the Soviet Russia with his second wife could also have been damaged due to the Russian law regulations. According to the so-called Tagancev code, i.e. Russian penal code of 1903 in the 19th part, devoted to family laws, we can find a record (418)¹⁵ specifying that bigamy is an act of adultery and should be punished with an arrest penalty. No matter which country Hašek was staying in, his decisions and actions concerning his second marriage were felonies.

Hašek's words mentioned above could be only one of the numerous legends on him, as Pytlík contended that the writer was aware of the crime he had committed and he expected subpoena. And so it happened. Four months after Hašek's homecoming he was served with a summons to appear before the Regional Criminal Court on the charge of Article 206 of the criminal code, that is bigamy.¹⁶ Suprisingly enough, he was not sentenced. The reason was quite paradoxical and even absurd for such a zealous communist as Hašek became in the Soviet Union. The relationships between Czechoslovakia and the new communist state were cold, even hostile. Although the two states signed a trade agreement in 1922, Czechoslovak foreign ministry refused to go further and

¹² Revolutions, Treaties, and State Succession, "The Yale Law Journal", Vol. 76, No. 8, 1967, p. 1669. JSTOR, www.jstor.org/stable/795056, accessed: 14.02.2020.

¹³ 16. *Pokusy o unifikaci a kodifikaci práva za první ČSR*, [on-line] [http://www.ius-wiki.eu/historie/pfuk/cech/zkouska/skupina-b/otazka-16?fbclid=IwAR3VycYp_Z_p\]5G1WpqSzEr31DnpqnsM-ZuhKmq6Hu2Sr8g5UBg9OUpx0yMU](http://www.ius-wiki.eu/historie/pfuk/cech/zkouska/skupina-b/otazka-16?fbclid=IwAR3VycYp_Z_p]5G1WpqSzEr31DnpqnsM-ZuhKmq6Hu2Sr8g5UBg9OUpx0yMU), accessed: 15.2.2020.

¹⁴ *Ustawa karna z dnia 27 maja 1852 z uwzględnieniem wszelkich zmieniających ją ustaw austriackich i polskich*, Lwów 1929, [on-line] <https://www.bibliotekacyfrowa.pl/dlibra/publication/50500/edition/51372/content>, accessed: 17.02.2020.

¹⁵ *Kodeks karny z r. 1903: (przekład z rosyjskiego z uwzględnieniem zmian i uzupełnień obowiązujących w Rzeczypospolitej Polskiej w dniu 1 maja 1921*, Warszawa 1922 [on-line] <https://historia.org.pl/2011/12/27/kodeks-karny-z-r-1903-tagancewa-1903-r/>, accessed: 1.03.2020.

¹⁶ See P. Kovařík, op. cit., p. 152.

rejected recognition of the USSR *de iure*.¹⁷ That means the Soviet law was not recognized and, from the Czechoslovak legal perspective, Alexandra Lvovna was not Hašek’s legitimate wife. That situation had disagreeable consequences for both women as after the writer’s death his copyrights were the subject of litigation and numerous trials between the two ex-wives.

Conclusion

Jaroslav Hašek’s attempt to lead an ordinary, restless life was never fulfilled. He died young, at the age of forty years, very ill, and as an offender. Although he was not sentenced, he had committed a crime as he had married two women within valid legal rules in two different countries and, according to the regulations of the day, should have been sentenced. Even though his life was one offering a rather cruel history to him as a man, in the case of his bigamy paradoxically made him a gift.

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¹⁷ A. Klevanskij, *Leninské principy sovětské zahraniční politiky a sovětsko-československé vztahy (1917-1922)*, p. 37. In: *Československo-sovětské vztahy jako faktor mezinárodní politiky (1917-1970)*, Praha 1975.

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