

DIVORCE NARRATIVES AND CLASS INEQUALITIES IN INDONESIA

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ABSTRACT

In the past twenty years, divorce has increased in Indonesia. Indonesian statistics show that divorces initiated by women exceed those by men. One issue that is often neglected is how socioeconomic differences also play a role in this matter. Drawing on our collaborative research on Muslim divorce in Indonesia, this paper focuses on the interplay between divorce strategies and socioeconomic differences among Muslim couples. Our in-depth interviews with (93) Muslim men and women and (19) judges from Islamic courts suggest that class differences shape distinctive dynamics of divorce among Muslim Indonesians. Couples from less educated, lower-income backgrounds tend to more easily accept marriage dissolution, with women becoming much less tolerant of men's behaviors such as domestic violence, infidelity, and failure to provide financial support. Educated, middle-class urban couples divorce for similar reasons but tend to experience a lengthier process accompanied by complex layers of conflict. Many educated women's narratives emphasize their ability to support themselves through working, and a desire to be free of a bad marriage at any cost. Class and education thus contribute to significant differences in the experience and trajectories of divorce in Indonesia.

INTRODUCTION

In stark contrast to most Western societies, divorce rates in Indonesia fell dramatically in the second half of the twentieth century (Hirschman and Teerawichitchainan, 2003; Jones, 1994; Jones, 1997). While in the early decades of the century, Indonesian divorce rates may have been some of the world's highest, by 1990 demographers calculated that the divorce rate had fallen to about 2 per 1000 by 1990 (Jones, 1997). Dommaraju and Jones (2011) argue that this sharp drop was due to rising age at first marriage, increasing educational attainment of women, and the decline of arranged marriages. But cultural changes also played a role. Ethnographic studies from the 1980s and 1990s indicate that divorce, particularly for women, became stigmatized among the growing middle classes (Sullivan, 1994; Brenner, 1998; Tickamyer & Kusujarti, 2012).

Given how low Indonesia's official divorce rate was in the 1980s and 1990s, the recent rise in divorce cases is small but notable. Cammack and Heaton (2011) observed a rise in religious court divorce cases from 144,912 in 2001 to 193,189 in 2008, and they also found evidence in demographic and household surveys that suggests that more recent cohorts are significantly more

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likely to be divorced. Divorce has risen continually since their study was published. In 2019, the Supreme Court recorded 480,618 divorce cases (Mahkamah Agung 2019).

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Despite the fact that divorce rates have risen in many predominantly Muslim societies, there are few empirical studies of this phenomenon. However, several important recent studies of divorce in Malaysia and Indonesia find that Muslim women have become more knowledgeable about their legal rights in Islamic marriage and divorce law and are aware that they have something to gain by going through the religious court system (Nurlaelawati, 2013; Van Huis, 2015; Peletz, 2018). This may be at least partly a result of greater institutionalization of the Islamic court system, especially in Indonesia, where it is only since the early 1990s that the Islamic court system has come under the guidance of the national government and also been given jurisdiction over Muslim marriages and divorces. Thus, one reason for the uptick in divorce is that it has become relatively easy for women to seek divorces through the Islamic court system.

However, cultural changes may also be driving changes in intimate relationships. In her recent ethnography of young Indonesian Muslims, Smith-Hefner (2019) argues that many Muslim women have become more pious as well as more interested in equitable marriages: “Women in particular emphasize their desires for a modern, companionate marriage and more equitable marital relationship in which their spouse is an active partner and parent” (179). Similarly, Rinaldo (2019) argues that the increased emphasis on the concept of wifely obedience among many Muslims is driven by increasing challenges to men’s authority in the household as a result of women being more likely to have education and career opportunities – such discourse tends to be used by women in order to claim an identity as a traditional wife even while having a career. While Indonesia has not seen the marriage decline evident in other Asian societies, recent studies do show a trend toward increasing age at marriage (Berliana et al., 2018). This may be due to women’s rising educational attainment and the financial independence it brings, but also because of rising standards for marital relationships (Nisa, 2020, p. 79; see also Hull, 2002; Himawan et al., 2018; Yeung et al., 2018). A countervailing trend toward early marriage in certain regions of the country may also contribute to the increasing divorce rate, according to the Indonesian National Family Planning Coordinating Board (BKKBN) (Nisa, 2020, p. 85).

Yet, in order to better appreciate what this divorce trend means for gender relations and family life in Indonesia and perhaps other majority Muslim societies, we need a more complete understanding of who is getting divorced, the reasons for divorce, and how divorce varies between social categories. For example, recent research from the US shows a significant decline in divorce since 2008 (Cohen, 2019). One of the drivers of this decline appears to be the fact that more highly educated and economically stable women tend to marry later, have happier marital lives, and are less likely to divorce (Isen & Stevenson, 2010). Some scholars argue that in Western societies, marriage has become a capstone achievement for the middle class rather than a widely expected marker of early adulthood (Cherlin, 2009). Ironically, this shift has occurred as divorce has become culturally acceptable in the US and divorce rates among less-educated people remain very high. These changes in a very different context suggest that it is important to understand how divorce experiences in different kinds of societies and cultures are shaped by social class. Muslim societies are a particularly significant and interesting case for studying divorce because divorce laws applied in Islamic courts tend to benefit men more than women, thus providing a possible disincentive for women to divorce.

Drawing on our collaborative research on Muslim divorce in Indonesia, this paper focuses on the interplay between divorce strategies and class interests among Muslim couples. Our in-depth interviews with Muslim men and women show that class inequalities also shape different dynamics of divorce among Muslim Indonesians. Couples from less educated, lower-income backgrounds tend to more easily accept marriage dissolution, with women becoming much less tolerant of men’s behaviors such as domestic violence, infidelity, and failure to provide financial support. Educated, middle-class urban couples divorce for similar reasons but tend to experience a lengthier process

accompanied by complex layers of conflict. Many educated women's narratives emphasize their ability to support themselves through working, and a desire to be free of a bad marriage at any cost. Social class, legal literacy, and education thus contribute to significant differences in the experience and trajectories of divorce in Indonesia. In the next section, we provide background on the laws governing marriage and divorce in Indonesia, as well as the divorce trend.

DIVORCE IN INDONESIA: 1974 MARRIAGE LAW AND COMPILATION OF ISLAMIC LAW

Marriage and divorce in Indonesia are governed by the 1974 Marriage Law, and for Muslims, the 1991 Compilation of Islamic Law, which is an Indonesian government standardization of Islamic family law (Van Huis, 2015). With the 1991 law, the Islamic court system was given full jurisdiction over Muslim marriages and divorces (prior to this, many Muslim marriages and divorces were decided by local religious authorities). The Compilation is the main reference of judges in Indonesian Islamic courts.

It is important to note that the Compilation differs in significant ways from the Islamic family laws in many Middle Eastern and North African Muslim majority countries. In many of these countries, it is far more difficult for women to obtain divorces or obtain custody of children after divorce. Feminist critiques of Islamic family law propose that it has generally been oriented toward preservation of the male family line and male authority in the household (Charrad, 2001; Mir-Hosseini, 2015). Thus, the Compilation's provision of multiple grounds for women to divorce husbands, requirement for divorces to be carried out in a religious court, and provision for women to get custody of children under 12 are distinctive.

According to the Compilation of Islamic Law, especially Art. 113, in the Indonesian Islamic family law (see also the 1974 Indonesian Marriage Law Art 38), "A marriage may be divorced for the following reasons: a. death; b. divorce, and; c. a judgement by the court of law." Further, Art. 114 specifies the types of marital dissolutions. The article reads: "Marital dissolution due to a divorce may happen because of the '*talak*' or a divorce lawsuit". Men thus have the right to a *talak* divorce, which means a divorce for any reason, while women have the right to a divorce lawsuit (*cerai gugat*). The Compilation lays out the grounds for *cerai gugat*, which include everything from abandonment to lack of financial support to disharmony. In practice, divorce cases are rarely denied. An important issue which differentiates Indonesian Islamic family law from most other versions of Muslim family law is that women have almost automatic custody of children under 12, unless they can be proved negligent. Art. 105 of the Compilation of Islamic Law says, "In the case of a divorce: a. Custody of children who are not yet *mumayyiz* or who are under 12 years old is the right of their mothers." After this age, children have the right to decide who they prefer to live with.

The Compilation also defines a divorce as legal only if it occurs in a court, which is another substantial difference from the Islamic law practiced in many other majority Muslim settings. The Compilation of Islamic Law Art. 115 (see also the 1974 Indonesian Marriage Law Art. 39 no. 1) stipulates, "A divorce shall be carried out only before a session of an Islamic Court after the Court has endeavored and has failed in bringing about reconciliation between the two parties". These laws confirm that the two parties must obtain judicial approval to justify their divorce. It is noteworthy, however, that legal literacy in Indonesia remains low. Therefore, during our research it is common to meet divorcees, especially among the lower class, who have not legally registered their marital dissolution.

It is important to note that women are financially disadvantaged if they sue for divorce. These

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provisions are more similar to classical Islamic family law. According to the Compilation Art. 149, when a husband divorces his wife, she is entitled to several forms of financial support, including receiving *mut'ah* (consolation gift), financial support during the *'iddah* (waiting period for women after a divorce), pay off the outstanding *mahar* (a gift given by the bridegroom to bride) (if any), and financial support for the children until they reach the age of 21. But when a wife divorces her husband, she has no entitlement at all, except for the children, and instead, the husband can ask her to pay him (*iwadl*) (KHI Article 148 no. 4). However, since 2018, based on the Circular Letter of the Supreme Court (Surat Edaran Mahkamah Agung/SEMA No. 3/2018), the wife who divorces her husband is entitled to *mut'ah* and maintenance during the *'iddah* period if there is no proof that she is committing *nusyuz* (disobedient against her husband, rarely applied). This regulation was issued to adjust to the spirit of the Supreme Court Regulation (Peraturan Mahkamah Agung/PERMA) No. 3 of 2017 on the Guidance to Adjudicate Cases of Women who are Conflicting with the Law (Pedoman Mengadili Perkara Perempuan Berhadapan dengan Hukum). The regulation was issued with the objective to eliminate discrimination against women in the judicial system. Judges have latitude in interpreting these regulations.

These changes demonstrate that divorce regulations are becoming more equitable, but women are still disadvantaged relative to men. Historical research suggests that it has long been common for Indonesian Muslim women who wanted a divorce to encourage their husbands to pronounce the *talak* so that they would have access to financial support (Van Huis, 2015). We found some evidence of this being used as a strategy, but primarily among middle/upper-middle-class women who had legal advice. This suggests that the institutionalization of the Compilation may have empowered lower-class women to seek a quick and easy divorce with less concern about the financial consequences, possibly because their husbands lack assets.

We examined the trend of divorce from 2007-2019. Official data on divorce in Indonesia is problematic because various government bodies present somewhat different statistics. However, data from the Central Statistics Body indicates that nationally, divorce cases increased from 175,713 in 2007 to 365,633 in 2016 (Badan Pusat Statistik). More recent data from the Supreme Court shows that 415, 510 divorce cases in 2017 and 480, 618 in 2019 (Mahkamah Agung 2017, 2019). Along with the earlier data discussed by Cammack and Heaton (2011), this shows a continuous rise in divorce since 2001. Although this data includes both religious and civil courts, because Muslim divorce cases are decided in religious courts and Muslims represent nearly 90% of Indonesia's population, the religious courts oversee the vast majority of divorce cases.

Additionally, divorce by litigation initiated by women or *cerai gugat* has long exceeded the number of *cerai talak* by men. In 2007 there were 64,129 cases of *cerai talak* and 100,745 cases of *cerai gugat*, according to the Directorate General of Religious Courts (Direktorat Jenderal Badan Peradilan Agama). According to the Supreme Court, when we were conducting research in 2017, there were 301,573 cases of *cerai gugat* and 113, 937 cases of *cerai talak* and this trend continues in 2019, with 355,842 cases of *cerai gugat* and 124,776 cases of *cerai talak* (Mahkamah Agung 2017, 2019)

The cities where we conducted research demonstrate similar trends. In Jakarta and Makassar, for example, the number of petitions submitted by women have not only doubled but tripled those by men. In Jakarta in 2017, the number of divorces initiated by husbands was 3,433 while those by wives was 9,220. In Makassar, the number more than tripled - *cerai talak* was 2,901 and *cerai gugat* was 9,958 (Direktorat Jenderal Badan Peradilan Agama). In the Islamic court in Malang, the number of divorce cases rose from 2092 initiated by men and 3932 initiated by women in 2010 to 2293 initiated by men and 4902 initiated by women in 2016 (Malang Religious Court). In one of the Islamic courts in Jogjakarta where we conducted research, in 2017 there were 404 divorce cases

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initiated by women and 160 initiated by men. In 2018 there were 496 divorce cases initiated by women and 183 initiated by men (Yogyakarta Wates Religious Court).

The four most commonly invoked reasons for requesting a divorce across Indonesia based on data issued by the Directorate General of the Religious Court are: long-standing disputes and quarrels; no responsibility, mainly from husbands which include absence of over two years without valid reason; economic or financial problems; one of the parties commits bodily or mental harm to the other. Our ethnographic research, however, demonstrates that these kinds of statistical categories often overlap in the actual cases of divorce.

A challenge for understanding divorce and social class in Indonesia is that data on divorce cases comes from the national court system, and this data is not disaggregated by demographic characteristics such as income or educational level. However, economic hardship has long been recognized as a major trigger of divorce, especially for lower-class couples (Jones et al., 2011). Moreover, around the world, including in Indonesia, a trend toward the feminisation of poverty has been linked with the feminisation of household headship, and these trends may be both a cause and a consequence of rising divorce rates (see Pearce, 1978; Asmorowati et al., 2019). In the next sections, we discuss our methods, and then analyze the different experiences and trajectories of divorce among lower-class and middle/upper-class women.

METHODS

This article is based on a collaborative study by the three authors which included 93 in-depth interviews with divorced men and women as well as interviews with 19 judges from Islamic religious courts and observation of divorce cases in the courts. Because women are more likely to sue for divorce, and because they are also more likely to be disadvantaged by divorce, this article focuses on divorced women.

Dr. Rinaldo initiated the study in 2016 and conducted interviews and Islamic court observations in the cities of Malang and Yogyakarta, with the majority of her participants based in Malang and surrounding areas. In 2017 and 2018, the study was expanded with a grant from the Global Religions Research Initiative to include Dr. Nisa and Dr. Nurmila as collaborators.

Dr. Rinaldo interviewed 34 divorced Muslim women and 16 divorced Muslim men. Dr. Rinaldo's interviewees are mostly middle class by virtue of their educational attainment. Half of Dr. Rinaldo's women interviewees (n=17) have at least some tertiary education and the majority (74% have completed high school. Four interviewees (about 12%) have less than a high school education. Most interviewees were aged between 25 and 45. More than half of the women interviewed (23) initiated the divorce case themselves, and nearly all who had children had sole custody of them. The women interviewed were employed in a wide range of occupations including civil servants, small business owners, university lecturers, and journalists, to name a few. Most reported a monthly income between 1 million and 5 million rupiah.

Dr. Nisa conducted research in Jakarta and Makassar. She interviewed 20 divorced Muslim women and 9 divorced Muslim men. Among these interviewees, 17 divorced women and 4 divorced men initiated the divorce. Most of the interviewees were between 20-64 years of age and hold a bachelor's degree. Twelve were high school graduates. Most of the interviewees who came from middle-class backgrounds hired lawyers to help them and the interviewees from lower-class backgrounds used legal aid assistance provided by the court. The interviewees' occupations ranged from medical doctor, civil servants, employees in private companies, micro and small business owners, housewives, to busway security.

Dr. Nurmila conducted research in Bandung. She interviewed 12 divorced Muslim women and 5 divorced Muslim men. Only 3 out of 12 women were being divorced by their husband, while all the men were divorced by their wife. The age of the interviewees was between 26-68 years old with the level of education ranging from primary school graduates to MA graduates, and with most holding a bachelor's degree. Their occupations varied from teacher, lecturer, trader, government public servant to domestic servant. Most women said that the process of divorce was fast (between one to three months), except for one female interviewee who is a civil servant who waited for six months to have her superior's approval for her divorce.

LOWER-CLASS WOMEN: ACCEPTING MARITAL DISSOLUTION AND NARRATIVES OF RELIEF

In a recent study, the Indonesian National Commission on Violence against Women (Komnas Perempuan) finds that one of the main reasons for early or child marriages in Indonesia is economic problems and poverty (Komnas Perempuan n.d., 12). In Indonesia, early and child marriages of girls, arranged marriages, secret marriages (*siri* marriages), and polygamous marriages tend to be associated with disadvantaged backgrounds (Jones, 2011; Marcoes & Putri, 2016; Nisa, 2018; Grijns

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et al., 2019). Jones et al., in their

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discussion on divorce and polygamy in Southeast Asia argue that “poverty accentuates many of the problems associated with divorce and polygamy” (2011, p. 6).

Yet investigating divorce among lower-class couples is complex, mainly because of the definition of poverty. The government defines the poverty line at Rp 440,538 (\$32.20) per capita income per month. The poverty line, however, does not reflect the conditions felt by many low-income families that earn somewhat more than \$32.20 per month. We use the term lower class, which covers a broad spectrum, including those who live under and over the poverty line, as the couples under this category are still struggling to fulfil their needs. The women in this category are all high school graduates or less. Here we discuss the experiences of four lower-class women in the divorce process.

Alang

Alang is a 24-year-old high school graduate who works in a barbershop in Malang. She was married at 16 and the marriage lasted for four years. They did not have any children. Like many lower-class women from Central and East Java, she moved to Singapore to work. She said that while she was there, they did not communicate well, and when she returned to Indonesia, she asked him for a divorce. She explained, “I could do better without him. I don’t think he respected me that much. He said mean things...he turned out to be disrespecting my family. I didn’t even care what other people said about me. I was the one who was being hurt.”

Alang’s husband did not want a divorce, and he took her diploma and identity cards and marriage license, and she had to visit local authorities to get new copies. She insisted on the divorce and submitted the case to the court herself. She described the process as quick. “There were no demands, and my husband didn’t even come to the sessions. I told them everything and the judges understood. My husband didn’t even give me any money for over a year – there’s a rule about that.” The divorce was finalized after 3 court sessions, over the course of about 6 weeks.

Alang said that the relatively smooth and simple end of her marriage came as a relief. She felt that her parents and friends supported her, telling her that it was fine to leave a “useless relationship” and that it wouldn’t be good for her to continue in a “bad marriage.”

Danti

Danti, a 20-year-old young mother with two children (1 year old and 5 years old), lives in a slum area of Jakarta. She married her husband seven years ago for love. Danti met her husband, Beni, in junior high school and was married before graduating. Beni is a *pedagang asongan* (street vendor) with a daily income between Rp 20.000 to Rp 30.000. The beginning of the marriage went smoothly, however, after having their second child they began to face difficulties. Despite the household needs increasing, Beni’s income remained the same. Danti, on the other hand, was unable to help financially due to caring for two young children. Danti says:

“I know that Beni worked hard for us because I could not help him financially. I really wanted to work too as a domestic worker, for example, but I have these two children. I could not leave them.”

They both were unable to handle the economic pressure. Danti said that Beni often yelled at her after returning home, even though she had a busy day with the kids. Before they finally decided to separate, Beni often did not return home and stayed at his parents’ house. He stopped providing financial support to his wife for more than three months. As a result, Danti had to depend on her parents’ kindness to share food. Danti recounts while shedding tears:

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“Beni did not care about us again. I had to come to my parents, who are also poor. My father is a *tukang parkir* (parking attendant). They also live *pas-pasan* (just enough to eat). I had to ask for their help because my children need to eat.”

After receiving no financial support from Beni for three months, Danti approached Beni and said she wanted a divorce. When asked how she divorced him, she replied:

“I just said, “*saya cerai sama kamu sekarang*” (I divorce you now). Since then I have never met him, only occasionally I ask him for money for our children, but sometimes he gives me only Rp 10,000.” This transfer of cash presumably happens through a friend or informal go-between, since she does not want to see him.

Danti divorced her husband orally without formally registering the divorce. Her marriage was legal and registered through the Kantor Urusan Agama (KUA -- Religious Affairs Office), which deals with Muslim marriage registration. But she did not understand how to process a legal divorce. She says:

“I did not know that I have to register my divorce to the Religious Court, as you said. I am scared, Mbak (Sister). I’m poor. I do not have money to do that. Let *orang berada* (those who can afford) visit the Religious Court. Poor and *wong cilik* (“little” people) like me, we need to have a simple life.”

This may have consequences for Danti in the future, as she will not be able to legally remarry unless she has a legal divorce. Without a legal divorce, she also risks losing custody of her children, and she is not legally entitled to child support or other financial restitution from her husband. Danti’s story is not unique in Indonesia, as a large number of marriages and divorces, particularly among the poor, are unregistered.

Yuyun

Dr. Nisa met Yuyun, a 27-year-old young mother with 3-year-old son, at the Islamic Court while queuing to meet an officer in the Pos Bantuan Hukum or Posbakum (Legal Aid Post).¹ That day was not Yuyun’s first visit to the court - three days prior, Yuyun came to ask whether as a poor woman, she could get help. The officer advised Yuyun to get a letter called Surat Keterangan Tidak Mampu (Poverty Certification Letter) to free her from all the costs of her divorce trial and to receive legal aid services. Posbakum is a legal aid post in the first level court at the district level, including the religious court, providing legal aid for poor justice seekers without charge. Posbakum helps prepare all low-class justice seekers to face court hearings. They also help collect all documentary evidence to be submitted during court hearings. Yuyun needed help from them because she did not understand the procedure of divorce. She says:

“I was told by that officer in the information desk that I could ask for free legal help. I do not know anything about legal matters, and I am poor. I am afraid I do not have enough money to do all of this process.”

Yuyun said that the officer from Posbakum gave her clear guidance. The Posbakum informed Yuyun about the documents that she needed to help cut the sequence of a prolonged trial process.

After three months, Yuyun returned to the Religious Court with the completed requirements, including two witnesses to support her arguments and as part of the conditions. The head of the panel

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of judges opened Yuyun's trial by emphasizing that Yuyun's husband Febri is absent (*ghaib*). Yuyun handed over the letter of the absence of her husband, stating that Febri's presence is unknown. Yuyun recounted her family problems. Febri is an online ojek (motorcycle taxi) driver. Since their son turned 3, Yuyun began to work as a domestic worker for a wealthy neighbor, approximately 100 meters from their home. Febri's income had never been stable and

¹ The existence of Posbakum is regulated through a Supreme Court Regulation Number 1 of 2014.

fluctuated between Rp 40,000 and Rp 100,000, depending heavily on customers. Eleven months prior, the couple stopped communicating, and Febri stopped providing financial support for Yuyun and their son. Yuyun no longer felt like a married woman. Adding to her economic problems, Yuyun learned that her husband had been committing adultery for two years; however, she was not convinced until she received a wedding photograph of her husband with another wife. She was shocked and decided to file for divorce.

Yuyun's trial was quick. The panel of judges issued their decision during the first trial because the whereabouts of her husband was unknown, and there had been no response to a letter which was sent to his address three months earlier. As she exited the trial room, Yuyun was emotional. She recounted:

“Alhamdulillah (Praise be to God). I'm teary not because I am sad that I have to divorce him. These are happy tears. I did not expect that a poor woman like me could get generous support to seek justice. I have always been feeling like a single mother, even when I still had a husband. I think as a woman, we have to be brave to fight for our life that we can do things even without husbands.”

Yuyun was confident that she could survive without her husband, especially a husband like Febri, who has hurt her badly.

Maryati

Maryati is a 34-year-old divorcee. She married her husband six years ago, and they have two children, 2 and 4 years of age. Every morning, from 5am to 10am, Maryati sells Jakartan take-away meals in front of her home, such as *nasi uduk* (rice cooked in coconut milk) and vegetable fritters. She earns around Rp 20,000 – Rp 40,000 daily thanks to her loyal customers. Her ex-husband, Bari, is an online *ojek* (motorcycle taxi) driver. During their marriage, they often experienced conflict because Bari did not provide financial support for Maryati. Maryati recounted:

“Bari gave me money as he wished. Sometimes he gave me once in a week, sometimes once fortnightly. He did this because he knew that at least I have a little bit of money from my *jualan* (selling the takeaway meals).”

Maryati was not only upset because of Bari's lack of responsibility, but she began to question how Bari spent his income. The ongoing disputes became more severe because Bari often physically assaulted Maryati. She faced years of domestic violence, and finally decided to move into her parents' home with the two children. Before Maryati chose to go to Religious Court, their families had attempted to reconcile the relationship. Maryati was afraid that returning to Bari would be futile as she had doubts that he would change his behavior. After living separately for three months, Maryati approached the Religious Court for help. Maryati, who had only finished high school, was actively looking for information on how to get divorced from her friends and families. She took the same trajectory as Yuyun by using the Posbakum legal assistance.

Maryati's trial was similar to Yuyun's trial - it did not take long. Maryati appeared twice before the court. Bari never attended the court hearing because he did not want to divorce Maryati. This resulted in a faster trial because the panel of judges decided to issue a *putusan verstek* or a default judgment - a type of decision issued when the defendant fails to appear before the court after receiving a third proper summons from the court. Based on our interviews and observations, it is common for husbands in these lower-class couples not to show up in court. Thus, many cases of lower-class couples do not reach the mediation stage, a stage when all parties appear before the court

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to settle their dispute amicably through mediation. If the husband does not appear in court and refuses contact, the judges issue the *putusan verstek* and the divorce is granted.

These four cases are typical of divorces experienced by lower-class Indonesians. Those who are legally illiterate, less educated, and very poor sometimes opt for informal divorce like Danti. They are scared of the cost of processing a registered divorce. Even with the presence of Posbakum and the financial aid offered for the poor, Danti and

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other women with similar situations, preferred not to go to the courts. They believe there will be hidden costs. For example, Ebah, who has been divorced for 3 years, for example, said:

“I will not register it to the Religious Courts, even if it is free. We still have to pay other costs, like transportation, photocopying and additional expenses. I really do not have money to do that.”

Judges who deal with lower-class divorces also try to help these populations by not making their trials complicated. They try to reduce the lengthy procedure because lengthy processes can be burdensome. In most cases of lower-class *cerai talak* (initiated by husbands) and *cerai gugat*, the defendants do not come to the trials. This is helpful for the panel of judges to issue their decision relatively fast. As Judge Neneng commented to Dr. Nisa:

“Lower-class divorce cases are usually easily decided. They are not fighting over *harta gono gini* (joint assets in marriage).”

Similarly, another judge commented: “They do not talk about assets, of course, because they have no assets. For these women, the most important thing is to have a more peaceful life and try to work hard for their children.”

The lower-class women who opt to legally divorce their husbands are mostly ready to be single parents. Some women, like Alang, Yuyun and Maryati, have a small income that can feed their families. They often have support from their families. As their husbands do not share their responsibilities, they feel that being divorced is better for them. They are aware that going through the court makes it more likely that they will gain full custody of their children. They are not especially worried about the financial consequences of divorce because in many cases, their husbands were not providing for them financially or they had little or no financial assets, and in some cases, being able to exit the marriage simply outweighs financial costs. They prefer to have a clear status so it will be easy to marry again in the future. Lower-class women who divorce outside the court risk losing legal rights and having an unclear status.

MIDDLE-CLASS WOMEN: INDEPENDENCE, HIGHER EXPECTATIONS, AND COMPLEX DIVORCES

Middle-class is an ambiguous category in Indonesia. When defined in terms of income and spending, it includes many people who are not that far from the official poverty line. In our research, we consider those who have tertiary education to be middle class. This is still a very small part of the Indonesian population as a whole -- about 13%, though it is increasing rapidly. Although middle-class women's incomes are not necessarily that much higher than lower-class women, they tend to have jobs in the formal workforce, and they have cultural capital such as greater knowledge of the legal system and their rights in Islam. Ethnographic accounts from the 1970s and 1980s indicated that divorce was stigmatized among this demographic – our research suggests that this is no longer the case (Sullivan, 1992; Brenner, 1998)

Two themes featured prominently in interviews with middle-class women: eagerness to be independent and feeling able to do so through working; and feeling angry or disappointed that their aspirations and expectations for the marriage were not being satisfied. For many educated women, the ability to be financially independent was a point of pride. Though wanting to be independent and believing that they could support themselves through working was not necessarily a cause of their divorce, it was a factor that made them feel like they could get divorced and survive the consequences. Middle-class women such as these were less likely to be dissuaded by the financial

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consequences of suing for divorce, but also somewhat more likely to experience a lengthy, complex, and sometimes disempowering divorce process. Below, we discuss four middle-class women's experiences of divorce.

Suryanita

Suryanita is 32 and has a bachelor's degree. She works in marketing and has one young daughter. She was married for five years. She sued for divorce shortly after her daughter was born because her husband was having an affair. In fact, she knew about the affair earlier, but kept quiet, believing that as a wife she could not question

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her husband. But once she got proof from his phone, she could no longer bear it. He did not want the divorce, but she left him and returned to her parents' house, refusing to see him. She waited to bring the case to court to make sure he was gone from her life and so that the case would fulfill the condition of abandonment. The divorce process went quickly because he did not appear in court and did not answer letters. Like many women suing for divorce, she made no financial demands and just wanted custody of her daughter, which she obtained. After the divorce, she said she felt so much freer, as her husband had been very controlling. He picked her up from work at 5 pm sharp, rarely allowed her to go out and see her friends and did not allow her to work after she got pregnant. "That's why I feel relieved and free right now. I'm free to express myself."

Suryanita said that when she decided to get a divorce, "I had no fear of financial problems because I can earn money myself." In fact, after the divorce, she did not want to receive any financial support from him. "I had no financial problems at that time. That's why I did not want to receive his money. Compared to my first job, the salary was not that much. But I still managed to give some money to my parents." Yet this was actually not easy. She was still breastfeeding her daughter, so with her mother watching her daughter, she went to work early in the morning, returned home at noon to take care of her daughter, and then went back to work at 5 pm.

Now that she is divorced, she is not that eager to marry again. "I'm proud to raise my daughter myself...I have friends to share with. Some of my friends needed marriage to have sex, while I don't. I am comfortable this way. I just don't want to take care of a man's daily needs. I'm not sure I can do it again."

Suryanita's statement about knowing she could support herself was a common theme among many of the women interviewed for this study, but it was especially prominent among women with a university education. In fact, this represents a fairly accurate understanding of the job market in Indonesian cities, where being a university graduate often brings a wage premium and opens up a wide variety of job possibilities, even for those who are not socially well connected. Many of these women might have divorced regardless of their financial situations but knowing that they can support themselves made it feel possible.

Another common theme among educated women was marriages that did not meet their aspirations and expectations. Women spoke of their husband's failure to contribute financially to the household, as well as behavior such as physical abuse and affairs, as behavior that they could not tolerate in a marriage.

Ayu

Ayu is 40, has a bachelor's degree, and owns her own PR and Management company in Malang. She was married for a decade before initiating the divorce. She said there had long been problems in the marriage. They married when she was 23 and he was 34, and she said that she was disappointed that her husband proved to be "not romantic", and she disliked his habit of watching pornography. As time went on, they were no longer intimate with each other, and he did not contribute financially to the family despite having a young daughter. Initially, after they got married, he did not want her to work, but they were suffering financially, and she got a job at a major technology company without telling him. But when she started getting paychecks, he stopped contributing to family expenses. As time went on, he started having an affair, came home drunk late at night, and refused to help with basic things like buying formula for the baby. Ayu said there wasn't really any particular trigger for the divorce – rather it was a slow process of realizing that he was not bringing anything to the relationship.

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As Ayu explained, “The problems accumulated over many years, that’s why I had enough. I wished for a miracle, that he would become the person I’ve always wanted. But he didn’t. So, there was nothing more to wish for.”

While many educated women had relatively quick divorce processes, for some women the process became much more complex and dragged on for longer periods of time.

Ika

Ika is 43, a high school teacher with a bachelor’s degree. She was married for 15 years and has two children. She sued for divorce because her husband was physically and emotionally abusive and did not provide money for family living expenses. In fact, she had wanted a divorce for a long time, but hung on in the marriage because of the children. Yet eventually, she realized that the children were scared of their father. Ika also felt that her husband felt threatened by the fact that she earned more money than he did, and said that he responded by ignoring his family and spending all his time hanging out with his friends.

Ika’s husband initially agreed to the divorce, but then after the process started he did not want to continue. He demanded she give him the title to the house, even though she had bought it and she had been paying the mortgage all on her own for four years. At the time I interviewed her, the process had dragged on for eight years and she was living with her parents and sister. Most recently, the court suggested that the house be sold and they split the money, and Ika was planning to agree to this.

Ika did receive assistance from friends, from her employer, and from the teachers’ union, but her husband made the process difficult. Unfortunately, when she bought the house, her husband’s family had insisted that the title be in his name. She felt that the legal system was not fully on her side. “Why did the house I bought have to be shared with my husband? I objected to the court, ‘If that is the rule and it has to be divided in two, go ahead. But I beg you to make him pay the cost of the house first. How about our children’s needs, a place for the children? If the house had to be divided, where would the children live?’” With this long court process and paying for her children’s education solely from her own salary, she is low on money and feels like a burden to her parents.

Ika’s struggles with a complex divorce process are unfortunately common. Nevertheless, it is also important to recognize that many middle-class women have advantages when it comes to divorce. Indonesia’s Compilation of Islamic Law, which governs Muslim marriages and divorces, disadvantages women who sue for divorce by making them ineligible for most forms of financial recompense from their husbands. Moreover, one of the key problems with the divorce process highlighted by other scholars and by many of our informants is a lack of enforcement of payments such as child support owed by husbands. Yet many middle-class women told us that even if they needed this financial support, they often chose not to ask the court to try to enforce these payments – they said they were not interested in pursuing payments from their ex-husbands because they either wanted to be free of the relationship or didn’t want to depend on that money. Being able to earn a decent income no doubt makes women far more secure in their ability to distance themselves from their former marriage or not worry about the financial consequences of lack of child support.

Hanny

Hanny married Asep in 1980 when she was in her final year of senior high school at the age of 20, while Asep was in the final year of his tertiary education. In the early years, their marriage was happy despite economic difficulties. Asep's career improved as he became a lecturer and even vice rector in an Islamic university, and he made good additional income as a well-known religious preacher. However, Hanny was very unhappy since 1987, when she found out that Asep was actually a married man with two children at the time she had married him. Hanny felt that she was being cheated on and since that time she felt that her marriage would end with divorce.

To prepare herself to live after the divorce while waiting for her three children to grow up, she continued her studies and saved some money she received from her husband's income. She was confused when she found out that she was pregnant for the fourth time in 1990, which would make her waiting time for divorce longer. Since 1987, she often quarreled with her husband and she knew that Asep had an affair with his colleague and student.

In October 2003, she applied for divorce, but then she withdrew her application in December 2003 to change from her initiating the divorce (*cerai gugat*) into asking her son to ask his father (Asep) to divorce her (*cerai talak*) so that she would not lose her economic rights under Islamic law. The divorce process then took about 10 months because as a civil servant, Asep needed to have permission from his superior first before applying for divorce in a religious court.

The divorce was granted in October 2004 and Hanny was legally entitled to receive a third of Asep's salary. However, Hanny never received this entitlement and there is no executing body to instruct the treasurer where Asep works to transfer his salary to Hanny. There was no dispute over their joint property. Asep had left the family house and all the assets for Hanny and her children. This may also be because Asep believed that Hanny would not be able to live without relying on his income and assumed that Hanny would come back to him soon. This assumption was wrong. Hanny was happy with her divorce and felt that she was free from what she called "the death grip" (*cengkraman maut*). "I do not need to worry anymore about where he is and with whom when he is not at home and he can get married again after this divorce". After the divorce, Asep married another woman, while Hanny preferred to remain single. Hanny and Asep were able to maintain a friendly relationship and even visited their son in Austria together in late 2018.

While Hanny's divorce ended in a relatively amicable situation, she did not receive the money she was legally entitled to, and if we include the time from when Hanny first initiated the divorce application to when the divorce was finalized, it was a full year. However, this came after 17 years of being unhappy in the marriage and wanting a divorce. If divorce laws provided more financial support and a guarantee of child support for women, it is possible that Hanny might have sued for divorce much earlier and perhaps been able to move on with her life at a younger age.

Thus, complex and lengthy divorce processes tended to occur for more affluent couples who had conflicts over property, because one of the spouses needed to get permission for the divorce from a superior, and/or because the wife sought to have the husband sue for divorce so that she would be eligible for more financial support. This speaks to middle-class women often being more strategic about the divorce process because they have more to lose or to gain financially.

Moreover, women's comments about disillusionment and disappointment reveal much about their expectations for marriage. Many educated women talked about wanting their marriages to be based on love and mutual respect. It is important to note that few middle-class women voiced a desire for

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an egalitarian marriage, but they did want their spouses to contribute to the relationship by helping take care of the children and providing income for the household. While this is not a new expectation of marriage in Indonesia, and in fact, it closely reflects the vision of marriage outlined in the 1974 Marriage Law,

it is significant that educated women articulate this vision as a reason for divorce. Simply put, like Ayu, many educated women seem to have a sense of what a good marriage or marital partner should be and view their marriage or spouse as not meeting this expectation.

CONCLUSIONS

This paper demonstrates the distinctive dynamics of marriage dissolutions across socioeconomic classes among Indonesian Muslims. Analysing whether we can see different phenomena born out of class differences in the case of divorce is not an easy task as there is currently no national data that measures the number of divorces by income or educational level. Anecdotal data suggests that divorce is more prevalent for the lower class, but we propose that it has also been destigmatized among the middle class.

Lower-class and middle-class women's narratives show that they share many similar reasons for divorce: physical and/or emotional abuse, infidelity, lack of financial support, and general conflict or disharmony. Across the class spectrum, family support is often an important component of divorce cases, with many women's parents assisting them financially and/or helping to care for children. This may be a result of Indonesia's tendency toward bilateral kinship arrangements, which differentiate it from many of the other societies that have institutionalized Islamic family law. Women also rely on family members to be witnesses during the divorce hearings.

Nevertheless, there are important differences in the experiences of lower-class and middle-class women. Lower-class women tend to have relatively quick resolutions to their divorce cases, and they often receive significant legal aid and financial assistance in the process.

In contrast, middle-class women also tend to emphasize their greater expectations for the relationship as well as their desires for independence as reasons for seeking divorce. They are also often more strategic in their divorce processes, seeking ways to retain control of financial or other assets. On the other hand, the lengthy process of divorce trials and dispute resolution that is often experienced by higher-income couples can involve disputes over distribution of joint assets and child custody and can involve continuous back and forth responses from both defendants and petitioners. These processes can be repeated multiple times until a panel of judges come up with a judgment. One lawyer Dr. Nisa interviewed mentioned that a client experienced 12 years of ongoing trials to solve a marital dispute before finally receiving a final divorce decision from the judging panel. Middle-class women's divorce processes also tend to be slower due to one or both partners needing to seek permission from a superior (in the case of civil servants) and because some women seek to have their husbands sue for divorce so that they can be eligible for greater financial assistance. Yet middle-class women still feel they have much to gain from divorce: especially the chance to exit a bad relationship, gain custody of children, and gain independence.

There are many valid concerns about the ways Islamic legal systems disadvantage women relative to men, but some recent studies (Nurlaelawati, 2013; Peletz, 2018) propose that in Indonesia and Malaysia, where Muslim family law is influenced by more egalitarian local traditions, the greater institutionalization of Islamic courts may benefit Muslim women by making divorce more accessible and guaranteeing them their rights under the law. Nevertheless, as Mohamad (2011) points out, Malaysian Muslim family law provides greater rights to men while failing to actually protect women, especially in divorce settlements, in which men tend to only be required to pay very small sums of money. Mohamad also criticizes Malaysian Muslim family law for its general masculinist skew (843). Our study demonstrates that the Indonesian Religious Courts have indeed made divorce more accessible to women, though similar to Malaysia, the Indonesian Compilation of Islamic Law is

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based on an essentialized understanding of gender that positions men as breadwinners and household heads (Rinaldo 2019). However, we also suggest that the benefits of greater access to divorce probably accrue more to lower-class women because the process is smoother and easier for those who lack property or assets. We also think it is important to remember that enforcement of payments such as child support is sorely lacking, and this can have severe consequences for lower-class women. Similarly, because the Compilation of Islamic Law does indeed disadvantage women financially if they sue for divorce, middle-class women who are dependent on a husband's good income may have much to lose in the divorce process. This is one reason that some middle-class women prefer to have their husbands initiate the divorce process – but such a strategy requires that the husband also want a divorce. Middle-class women are also more likely to have complex divorce processes with disputes over assets and custody, which sometimes are not in their favor. Nevertheless, many middle-class women in our study were aware of these complications and this did not dissuade them. Thus, the institutionalization of the Islamic court system and Islamic family law has made divorce more broadly accessible and shifting cultural norms for marriage may also be contributing to a rise in divorce. But social class, legal literacy, and education create significant differences in the experience and trajectories of divorce in Indonesia, and women can be advantaged or disadvantaged in very different ways. At a time when Indonesian women have increasing access to educational and career opportunities, many women have increasing expectations and aspirations for what marriage should (and should not) look like. Those who seek to empower Indonesian women should consider how Indonesia's Islamic legal system could be reformed to provide greater equity for women in divorce cases.

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