

# Justice brokers: Women's experiences with injustice and dependence in the divorce process

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## SOCIOLOGY | RESEARCH ARTICLE

# Justice brokers: Women's experiences with injustice and dependence in the divorce process

Mufliha Wijayati<sup>1\*</sup>, Irwan Abdullah<sup>1</sup>, Sally White<sup>1</sup>, Aden Rosadi<sup>1</sup>, Ade Yamin<sup>1</sup> and Yuniar Galuh Larasati<sup>1</sup>

**Abstract:** Rising divorce rates have increased the need for third parties' involvement in seeking justice. This study explores village officials' involvement as justice brokers in divorce proceedings and their accompaniment of women during the process. Research was conducted through direct observation of courtroom proceedings, interviews, and document mapping. Two important points are noted. First, when initiating divorce proceedings, village officials tend to become involved as justice brokers to ensure the rapid conclusion of the process. Second, the involvement of justice brokers in the divorce process contributes to the subordination, marginalization, and stigmatization of women. Women's autonomy in making legal decisions is influenced by the involvement of these justice brokers, who are perceived as having access to legal knowledge and possessing connections within the legal system. This article recommends three courses of action: expanding substantive justice for women, increasing gender sensitivity amongst involved officials, and reinforcing women's organizations' accompaniment of women during the legal process.

**Subjects:** Socio-Legal; Islamic Family Law; Gender Studies

**Keywords:** Justice broker; women; divorce; religious court; women's right in divorce

### 1. Introduction

Ironically, the involvement of village administrators (as well as religious and cultural leaders) as justice brokers in divorce proceedings often results in injustice. Although these brokers facilitate the divorce process, they also erode women's autonomy before the law. As explained by M. Cammack et al. (2007), women who initiate divorce tend to require third-party support to ensure their success. With justice brokers, however, women are commodified as objects of the legal process, and thus vulnerable to injustice and rights infringement. Justice brokers are common within communities that require particular guidance, particularly those located far from religious

### ABOUT THE AUTHOR

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### PUBLIC INTEREST STATEMENT

Open access to justice for all is a prerequisite for the realization of substantive justice. This paper discusses the role of 'justice brokers' in helping women access court services in divorce cases in Indonesia's religious courts. The presence of justice brokers, on the one hand, facilitates women when initiating divorce proceedings in court. On the other hand, the involvement of justice brokers reproduces the gender inequalities and injustices experienced by women in the legal, economic, and social spheres.



**1** courts (Nurlaelawati, 2010); for instance, in the research area, it was found that 106 individuals from 232 villages had been involved as justice brokers in local religious courts.

However, studies of women's experiences with divorce have rarely considered the justice brokers who often shape the process. Existing studies have tended to employ three perspectives. In the first, studies view women's position as being undermined by applicable law (Irianto, 2008; Nasir, 2016; Wijayati, 2020). In the second, studies examine the courtroom process within the context of its implications for justice (Haekal et al., 2020; Irianto, 2008; Nasution et al., 2020; Samsoeri, 2010). Finally, in the third, studies investigate the effects of legal decisions on the rights of women and children (Haimi & Lerner, 2016; Nurlaelawati, 2013; Thiessen, 1993; Van Huis, n.d.; Yu et al., 2010). Studies have yet to map women's search for justice and intermediaries' determinant role in divorce proceedings, exploring how the substantive justice received by women is not simply determined by the courts, but designed by the brokers who accompany them.

This article seeks to fill this gap in the literature by showing that the justice sought by women through legal processes is not simply determined by the courts, but also by the diverse parties involved in the process. As such, it seeks to answer three questions: (1) how do extralegal institutions influence the objectification of women through divorce? (2) how does extralegal institutions' involvement in divorce processes indirectly determine women's divorce rights? (3) how do the legal decisions designed by justice brokers reinforce the stigmatization of women, thereby causing problems in society?

This article departs from the argument that women's limited processual knowledge leads to them involving third parties in divorce proceedings. Third-party institutions' involvement in divorce proceedings, while facilitating women's efforts to file, also contribute to their objectification. Women are treated as legal commodities, and this results not only in financial burdens being imposed upon them, but also in proceedings employing male perspectives. In other words, the search for justice results in unjust decisions that harm women.

## 2. Literature review

### 2.1. Religious courts and the divorce system

In the Indonesian legal system, religious courts are responsible for administering justice using an Islamic perspective (Aripin, 2008; Arto, 1996). Indonesia's legal hierarchy follows a continental system, with higher courts serving simultaneously to monitor the decisions of lower courts and to accept appeals of such decisions (Lev, 1990; Subekti, n.d.; Thalib, 2017). Four types of court are recognized: the aforementioned religious courts, state courts, military courts, and administrative courts. Each plays its own role, providing general and specific justice in specific cases to specific citizens. Each has its own hierarchy: a lower court, a higher court, and a supreme court.

Religious courts exist not only to resolve disputes, but also to maintain the existence and ensure the continued implementation of Islamic law in Indonesia (Aripin, 2008). Historically, these courts' role and prominence have ebbed and flowed, as has their position and authority (Cammack et al., 2007; Hefner, 2008; Lev, 1990; Rosadi, 2015; Van Huis, 2019a). Before 1989, all decisions issued by a religious court had to be approved by a state court (through a fiat of execution) to be legally binding (Aripin, 2008; Rosadi, 2015). This provision reflects the inferior position of the religious courts vis-à-vis Indonesia's other courts. After the passage of Law No. 7 of 1989, religious courts and their legal decisions were given equal standing. Indeed, managerial, administrative, and fiscal reform resulted in all courts being placed in a one-roof system with other courts under the Supreme Court (Aripin, 2008; Hosen, 2011). Religious courts began to be perceived as stronger, more modern, and more progressive (Kharlie & Cholil, 2020; Nurlaelawati & Salim, 2014; C. Sumner & Lindsey, 2011; Van Huis, 2019).

Divorces, which fall under the purview of religious courts, are noted as having increased from year to year. Divorces filed by women (in Indonesian, *cerai gugat*) are three times more common than divorces filed by men (in Indonesian, *cerai talak*) (Cammack et al., 2007; Nasir, 2016; Nurlaelawati, 2013; C. Sumner & Lindsey, 2011) Indonesia's marriage laws (Law No. 1 of 1974 and the *Compilation of Islamic Laws*) sets several hurdles for divorce, only granting them when testimony is provided in court to provide appropriate legal justification; this is intended to protect women and children from neglect and the effects of unilateral divorce (Nasution, 2002; Van Huis & Wirastri, 2012; White, 2004). However, studies have shown that women have a weak position before the law in Indonesian divorce cases—and, indeed, in other countries as well (Curnow, 2015; Espin López, 2016; He & Hang, 2013; Igra, 2019; Lindström & Rosvall, 2016; Määttä, 2011; Mackay, 2014; Nurlaelawati, 2013; Simmonds, 2019; Van Huis, 2010; Yu et al., 2010). Women, therefore, experience significant obstacles when accessing legal services, during courtroom proceedings, and in court decisions.

## 2.2. Justice Brokers in Divorce Proceedings

Justice brokers, serving to connect individuals with the court system and to facilitate the implementation of civil law, have become increasingly common in courtrooms around the world (Abdulahanaa, 2017). However, in practice, these legal brokers are perceived as representing their own specific interests and seeking solely to benefit themselves. Such brokers tend to rely on their connections to play a role and gain influence in disputes and cases (Heaney, 2006). In rural regions, for instance, brokers (divorce offices, village administrators, and religious figures) are often involved in marriage and divorce cases. Susylawati and Hasan (2011) write that, in Indonesia, village chiefs often serve as advisors and aides in courtroom divorce processes, as they seek to accelerate the process and maximize its benefits. Public trust has only increased the perceived benefits of serving as a justice broker.

The commercialization of public services and trust has thus created a new occupation, one dominated in Indonesia by public officials and *kyai* (Arsal et al., 2016). This is reinforced by Gottlieb (2017), who writes that respect for and obeisance of societal leaders influences individuals' perspectives, and that brokers' involvement in marriage and divorce shapes the processes inexorably. As argued by Lee (2013), the higher the status of the broker, the more likely the broker's involvement will benefit himself and his client. This process has been reaffirmed by multiple factors, particularly the substance of the law, the structure of the law, and the culture of the law (Erdianto, 2010). Where these aspects are weak, the values and norms of the law are eroded. A case study in Senegal showed that justice brokers establish patron–client relations with their clients, with brokers making decisions and clients simply obeying them (Gottlieb, 2017). Although justice brokers must ideally serve a bridging function in divorce proceedings and facilitate the legal process (Abdulahanaa, 2017; PEKKA), in practice many fail to position women as subjects whose experiences must be heard.

## 2.3. The objectification of women in courtroom proceedings

Objectification is defined as the process through which an individual is reduced to a means through which a goal can be achieved (Gruenfeld et al., 2008). Objectification assumes the rejection of individual autonomy, the neglect of personal feelings and experiences, and ultimately the denial of subjectivity. In several studies, objectification has been connected with ideal femininity and the female body. Morris et al. (2018), for example, describe sexuality and physical appearance as the two most common models for objectifying women and their bodies. Studies have shown that sexual objectification results in dehumanization, which implies a view that women are somehow less than human. (Daniels et al., 2020; Levesque, 2018; Rollero, 2017). Victims of sexual violence are vulnerable to revictimization; a case study in India found that victims tend to experience objectification in the criminal justice system, without any consideration of their humanity (Burke, 2008; Gupta, 2021).

Several studies have also emphasized the strong correlation between power and objectification, showing that those in power tend to subject others (i.e. those lacking power) to objectification (Gruenfeld et al., 2008; Xiao et al., 2019). Factors that may contribute to objectification include vulnerability, disparity in power relations, physical weakness, and knowledge limitations. A research conducted in Cambodia reveals that the law of domestic violence tends to lead to the female objectification. This phenomenon similarly occurs in Indonesia and Vietnam. The cultural and structural matters, in peculiar circumstance prompt the re-victimization (Afrianty, 2018; Vu et al., 2014). The woman impairment appears in the statement that religion figure and legal assistance (LA) have better understanding to the victim's needs. This claim encourages them to intervene deeply in the action and decision which is not aimed by the victims. Furthermore, this emasculates the victims' right to participate during the judicial process (McDermott & Garofalo, 2004). This condition occurs because the law system is not designed in accordance to the victim perspective (Brickell, 2017) or in a specific condition, the victims are prejudiced having low competence and jurisprudence (McDermott & Garofalo, 2004). Women's vulnerability results in them experiencing objectification, and at a certain level undergoing legal commodification.

Though courtroom processes perpetuate the power of the law within society, said processes and the laws they uphold tend to ignore women's perspectives (Warner, 2016). In many cases involving women, men are positioned as superior and wield greater power (Simmonds, 2019). Just as society relegates women to specific gender roles, courtroom processes are inexorably biased against women (Michniewicz & Vandello, 2015). This is emphasized by Kenney and Windett (2012), who write that women are only rarely important actors in courtroom processes, and that their views are frequently dominated by the arguments of men (Jacobi & Schweers, 2017). Courtroom processes are inexorably defined as involving the investigation and determination of specific legal facts, both criminal and civil (Kang et al., 2012). However, women's statements rarely carry weight, especially in divorce cases, even when they are victims of domestic violence and abuse (Nielsen et al., 2016).

Women are expected to simply accept the consequences of courtroom decisions, even when said decisions are injurious to them. First, women are often blamed for their education and their employment; as Ruppanner (2012) notes, independent women are commonly perceived as neglecting their domestic responsibilities. Second, women tend to experience stigmatization and abuse—which is legitimized by law—as a result of their divorcee status (Simmonds, 2019). Third, women experience financial and psychological trauma, and must bear significant burdens (He & Hang, 2013; Igra, 2019). Fourth, women may lose custody of their children (Lindström & Rosvall, 2016; Yu et al., 2010), particularly when their husbands are deemed to be more financially stable.

#### **2.4. Legal justice**

The question of justice is often linked to the laws that regulate societies and communities. Legal justice is defined as the process and mechanism used to ensure fairness, accountability, and reconciliation (Evans, 2016). However, in reality, realizing justice often involves extralegal factors; judges often consider psychological, political, and social factors in making their decisions (Danziger et al., 2011). As such, legal justice is perhaps better conceptualized as involving a critical thinking framework oriented towards realizing the greater good (Dionigi & Kleidosty, 2017). Unfortunately, in many cases, such justice is not realized, and biases are made manifest (Hendrix, 2013). In the context of the criminal justice system, the court plays a significant role in helping victims get deserved justice (Popoola et al., 2019). As noted by Wijayanta (2014) within the context of domestic abuse, questions of legal certainty and efficiency are often given greater weight than justice, and this affects both perpetrators and victims.

Legal justice is viewed as a means of creating balance and equality, as reflected in the five forms of legal justice: distributive justice (social access), commutative justice (realization of economic potential), retributive justice (legal protection), restorative justice (recovery), and procedural justice

(legitimacy) (Aragão et al., 2016). In this context, legal justice is a means of ascertaining the validity of a decision, and as such, it influences society's perceptions of legislation and legal procedures (Lampoltshammer et al., 2016; Sadurski, 1984). Legal justice may be measured, for instance, by the extent to which information may be openly expressed in court; as noted by Lampoltshammer et al. (2016), systems with higher levels of openness tend to have higher levels of bias, as decisions are made with consideration of society's dominant perspectives. Where legal justice is not realized, victims and their interests tend to be marginalized in courtrooms and other venues (McGlynn, 2011).

### 3. Method

This article departs from research conducted within the jurisdiction of the Metro Religious Court, Lampung, Indonesia, where divorce rates have increased significantly since 2016. This has been driven in part by the increased number of divorces initiated by women. Although this would seem to position women as subjects, in reality, they remain legal objects, as they rely on third parties in their filing. Significantly, in East Lampung (under the jurisdiction of the Metro Religious Court until 2019) there has been an increase in the number of divorces in which village administrators have acted as justice brokers. In the hope of facilitating the achievement of substantive justice, this study investigates how the involvement of justice brokers has simultaneously assisted and injured women in divorce cases.

This article focuses on three main actors: women who have been or are currently involved in divorce proceedings; village administrators who have been directly involved in legal proceedings as justice brokers, thereby connecting women with legal institutions; and knowledgeable legal actors (lawyers, judges) tasked with handling divorce proceedings. Such a broad investigation is necessary. Women's lack of legal knowledge drives them to seek brokers, who act as their representatives in court proceedings, and as such legal experiences and responses can only be ascertained through investigation of all involved actors.

Data for this article were collected by observing courtroom proceedings, conducting interviews with participants, and mapping pertinent documents. Observation of courtroom proceedings was conducted between 2017 and 2019, and covered all stages of the process (filing, reading of charges, replication, duplication, evidence, and decision). Interviews were conducted with informants from all three categories, with emphasis given to women's search for justice both within and without the courtroom. Finally, during document mapping, court decisions related to divorce issued between 2016 and 2018 were identified and reviewed. Documents were either collected from the Supreme Court's directory of court decisions (then confirmed with the Metro Religious Court) or collected directly from the court. Regulations were also consulted to understand the relevant legal framework and norms.

Collected data were analyzed through summary and restatement, then categorized thematically in accordance with the purposes of this article. Description was used to identify patterns and tendencies in collected data, which was subsequently interpreted within informants' specific individual contexts and broader social contexts. Interpretation was also used to understand the linguistic and symbolic meaning of the data collected from informants and relevant legal texts.

### 4. Results

#### 4.1. Justice brokers' involvement in divorce

For women in the area studied, justice brokers are a necessity in divorce proceedings. This is reinforced by multiple factors, including women's limited legal knowledge; the stigma of courtroom proceedings; and the physical and social dangers experienced by women. Few women have prior knowledge of divorce proceedings, and as such they are forced to seek the assistance of others in initiating divorce proceedings. Likewise, the public perceives the legal system as overly complex and complicated, and courtrooms as being frightful places that are best avoided. This is exacerbated by geographical conditions; women, especially in rural areas, must travel a significant distance to reach the religious

**1**  
**Table 1. Assize and pro deo services in the Metro Religious Court, 2018–2020**

Service	2018	2019	2020
Assize	107	37	111
Pro Deo	20	20	20
<b>TOTAL DECISIONS</b>	<b>1,418</b>	<b>742</b>	<b>1,022</b>

**2**  
**Table 2. Cost of Divorce in the Metro Religious Court, 2016 (Metro City and East Lampung), in Rupiah**

Zone	Distance (km)	Divorce Initiated by Woman	Divorce by Man	Justice Broker
Radius 1	01–20	491,000	651,000	4,000,000–7,000,000
Radius 2	21–40	591,000	791,000	
Radius 3	41–60	716,000	966,000	
Distant 1	61–80	966,000	1,316,000	
Distant 2	81+	1,091,000	1,491,000	
Distant 3	81+	1,341,000	1,841,000	

**2**  
 court. Owing to poor road conditions, as well as a lack of public transportation infrastructure, women are vulnerable to crime and violence when traveling to court. All of these factors drive women to involve village administrators as justice brokers when filing for divorce.

Assizes (in Indonesian, *sidang keliling*), legal aid offices, and pro deo court services designed to reduce legal costs, as reported by Curnow (2015), Sumner and Zulminarni (2018), and C. Sumner and Lindsey (2011), have been insufficient for the Metro Religious Court. In 2015 and 2016, for instance, assizes and pro deo services received extremely limited funding; likewise, between 2017 and 2020, the Religious Court was able to subsidize less than 1% of all legal fees. In total, as shown in Table 1, pro deo services were only access by twenty people from poor families. This has reduced the space available for vulnerable groups to access legal services. Owing to their limited access and knowledge, women seeking divorce must seek the services of a justice broker.

When serving as justice brokers, village administrators do not only provide legal assistance, but also spiritual support and transportation services. Although these brokers do not enter the courtroom, they assist women in filing and drafting their claims and counterclaims, preparing evidence, and directing witnesses. At the same time, they attempt to lend women the mental fortitude to overcome their fear and their anxiety, thereby better preparing them to deal with courtroom proceedings. Women are further facilitated by transportation services. With this support, women have the strength to assert themselves and their interests in court.

In return, women are expected to pay significant fees, the amount of which is determined through a zoning system. Owing to transportation costs, fees are highest in the areas that are furthest from the religious court. Also contributing significantly to fees is the expense of involving process servers. While divorce proceedings themselves cost between Rp 491,000 and Rp 1,341,000, women are expected to pay between Rp 4,000,000 and Rp 7,000,000 to their brokers. Even when a lawyer is involved, women are expected to set aside Rp 500,000 to Rp 1,000,000 for brokers' services. Table 2 shows the costs incurred by women when using justice brokers, as influenced by distance and other factors.



#### 4.2. The Abrogation of Women's Rights during Divorce

Divorces initiated by women often resulted in the abrogation of women's rights. (KHI, Article 149 b). Data indicates that divorces filed by women are three times more common in Lampung than divorces filed by men (Tim, 2016). Such divorces are commonly initiated after long-term family disputes. Among the potential legal consequences of divorces filed by women include the loss of access to *nafkah iddah* (support during the waiting period), *mut'ah* (compensation), and (in certain conditions) custody over children. The abrogation of women's rights during divorce is indirectly caused, or at least exacerbated, by the intervention of justice brokers, who commonly simplify materials when filing. DA (2018) explains, even when both parties have agreed to a divorce, justice brokers may recommend that the process be initiated by the woman to increase the speed and reduce the cost of proceedings.

As indicated above, efficiency is a major factor for women initiating divorce (through filing) as opposed to men initiating divorce (through *talak*). Where divorces are initiated through formal mechanisms, courtroom processes are concluded more rapidly and less expensively (see Table 2). In such cases, it is possible for the husband (as the defendant) to not attend; and in such a case, a decision may be made reached within two (rather than eight) hearings, with the divorce declared *in absentia* (in Indonesian, *verstek*).

Divorce may be declared in absentia, as it is held that, if the respondent does not show, he is acknowledging that the claim has a solid base, and such acknowledgment is sufficient evidence; in such a case, other evidence is deemed supplemental. During the second hearing, once sufficient evidence has been provided, the reading of the decision may be scheduled. (NS, 2018)

The failure of the husband (defendant) to attend the hearing is seen as an affirmation of the claim, and thus used as the basis for decision-making. As such, the woman (as the claimant) need only travel to court three times: for filing, for first hearing and mediation, and for the reading of the decision. This differs significantly from a *talak* divorce, which requires a pledge hearing (*sidang ikrar*) after the decision is reached, therefore requiring more time and incurring more costs. Likewise, during a *talak* divorce, women have the opportunity to respond with a counterclaim, further extending the process. As such, brokers tend to recommend an *in-absentia* divorce.

Justice brokers also tend to recommend that women limit themselves to filing for divorce, thereby influencing their legal decisions. Women often lack knowledge of the rights involved in divorce, and doubt the possibility of achieving justice. Even when an understanding is achieved, few opportunities are available, as families are often past the point of reconciliation. As such, women file only for divorce; complex related issues, such as child custody, property, child support, and spousal support, are set aside.

Me, Ma'am ... for years I wasn't supported. I took care of the kids, my wages were used for his capital, but it was wasted gambling. My family knew, but I stayed silent. When it happened (I caught my husband cheating), my heart couldn't take it. I wasn't strong enough. The important thing was I could get away. (KJ, Respondent)

Justice brokers' decision to emphasize the divorce claim itself results in women being incapable of ensuring that their rights are protected. When women are the claimants, it is difficult for them to receive their *mut'ah* (compensation); *nafkah iddah* (support during the waiting period); and custody rights. In the 39 decisions studied here, only divorces were granted; *mut'ah*, *nafkah iddah*, and custody rights were not decided. In one case, the divorce was granted, but custody was granted to the husband, with child support paid by the wife (the claimant).

Table 3 below shows that decisions have been made uniformly, without any consideration of their unique characteristics. In other words, decisions follow a fixed formula rather than

**Table 3. Examples of decisions from the Metro Religious Court**

Decision No.	Reason(s) for Claim	Material of Claim	Decision
005/Pdt.G/2016/PA.Mt	Blind jealousy, frequent threats with weapons, physical abuse, failure to provide	Divorce	Approved, with costs borne by the claimant
1645/Pdt.G/2016/PA. Mt	Adultery, frequent bouts of anger, physical abuse, failure to provide except where money provided by family, hiding claimant's earnings from Taiwan	Divorce	Approved, with costs borne by the claimant
1383/Pdt.G/2017/PA.Mt	Failure to provide, using claimant's earnings from Hong Kong for personal pleasure	Divorce	Approved, with costs borne by the claimant
0050/Pdt.G/2016/PA.Mt	Blind jealousy, drunkenness, physical abuse, frequent threats with weapons	Divorce	Approved, with costs borne by the claimant

considering the diverse factors underpinning individual divorces. It can thus be understood that justice brokers' involvement does not ensure justice is achieved. Rather, justice brokers' recommendation that women file for divorce and simplify their demands results in the weakening of women's position before the law.

The examples above illustrate how judges tend to decide cases based on the material claims designed by justice brokers (as third parties). Women are pressured by their limited knowledge and ongoing family conflicts, while judges may make decisions based solely on the material claims filed, as required by jurisprudence. These data show that Religious Courts are limited to legally recognizing the divorce, and cannot ensure that the rights of women and children are protected.

#### 4.3. The negative stigma experienced by women during the divorce process

When filing for divorce, women experience significant stigma, which may be attributed to three main factors: being stereotyped as combative/rebellious (*nusyuz*), being branded as incapable of maintaining family harmony, and facing the stigma associated with their new status as divorcées. Where women act as claimants in divorce, they tend to be perceived as the "source of problems" in their families. Such stigma is manifested in the courtroom, in the family, and in society.

Wives who file for divorce are commonly identified as combative or rebellious (in Indonesian, *nusyuz*) (Wijayati, 2020). This label not only carries a significant stigma, but also results in women losing the legal privileges they would have received otherwise; such women have no right to *mut'ah* (compensation) or *nafkah iddah* (support during their unmarriageable period), and may even lose custody of their children (KHI, Article 149 b). This label, thus, is a gateway to the abrogation of women's rights during divorce. Further complicating the matter, the *Compilation of Islamic Laws* does not define *nusyuz* clearly, and leaves the determination to judicial discretion. Likewise, applicable law does not allow for husbands to be identified as *nusyuz*, even though this occurs in the Qur'an (in Surah An-Nisa 128). Both legal and religious doctrine, thus, allow for the stigmatic labeling of women who file for divorce.

The stigma experienced by women who file for divorce is also related to the perception that they have failed to maintain family harmony. In Indonesian society, women are normatively expected to bear the burden of maintaining domestic harmony. Women are expected to maintain their

**1**  
**Table 4. Respondents' statements regarding negative stigma**

Statement	Speaker	Coding
"How could you be expected to be supported? You went abroad. After you had money, you came home and filed for divorce. Did you not pity your children?"	Judge in court, 2017	Woman blamed in court
"My husband's affair, it was not his first. ... many of my neighbors were <i>slentang-slenteng</i> (gossiping), saying I was too busy working, building my career, and so I failed to take care of my husband, and thus he had an affair with another woman. The last one, with a singer. God, I felt weak, as if in a dream. Had to pinch myself, to see if I was dreaming."	KJ (respondent)	Woman blamed, even though divorce caused by husband's extramarital affair
"That's how it is now, Miss. Lots of wives these days can't accept their situation. They make too many demands, don't recognize their husbands' means."	Village Chief X, 2018	Woman blamed for having too many demands
"Wives these days, Miss, they're influenced by social media. They expect too much. They make all sorts of demands, and thus many divorces are filed by women."	Anjarwati, (respondent)	<b>2</b> Women blamed, attributed to desired lifestyles

husbands' honor, their family's dignity, and their household's harmony (Afrianty, 2018; Parker & Creese, 2016). Broken marriages are often blamed on wives, who are perceived as unaccepting, ungrateful, or too busy with their careers. Such stigma comes not only from men, but also from other women.

Informants' expressions reflect society's tendency to blame women for household problems. Owing to such social blaming, some women choose to persevere in unhealthy household situations. This decision is commonly perceived as using agency to promote peace, improve relationships, and repress the violence experienced (Afrianty, 2018). Where women persevere and remain in unhealthy relationships, they are perceived as ideal examples of womanhood, as being able to maintain household harmony. Conversely, where women decide to file for divorce, they are branded shameful failures (Mahy et al., 2016; Parker & Creese, 2016; Pooja Rathi, 2018; Putra & Creese, 2016). This stigma is only exacerbated when the divorce is initiated by the woman, as shown in Table 4.

**1**  
 Stigma endures even after the divorce is granted, as divorcées are perceived negatively by society. Many Indonesians believe that divorcées are temptresses, willing to lead other women's husbands astray, or conversely believe that divorcées are willing to accept the advances of all men. They are viewed with suspicion, caution, and often deemed best avoided. KH, for instance, stated that she had been mistreated by her boss after her divorce. Her coworkers, similarly, teasingly branded her the boss's second wife after the two worked together (KH, 2018). Umi (2018), similarly, faced questions of when she would remarry, often justified by concerns over who would support the children and protect her good name. Umi perceived these questions as mocking and insensitive to her negative experiences. NW voiced similar concerns:

Actually, I feel insulted if someone asks, or recommends that I marry again. Teases me, I mean. Especially when they cite my children, claim that they need someone to support

them and pay for their schooling. They think that I don't ... that I can't provide for them. They don't think, 'Who has been taking care of them until now?' (NW, 2019)

The stigma experienced by women—from their families, the courts, and even from general society—underscores women's loss of control as subjects. This occurs even when the decision to file for divorce was not made entirely by the woman, but designed by the justice broker; indeed, even when legal decisions are all made by the justice broker, women must bear the consequences. Women are left vulnerable, depending on others in their search for justice. Furthermore, the identification of women who file for divorce as rebellious (*nusyuz*)—justified by religious interpretations of the concept—has significant legal consequences, as it is used to justify the abrogation of their rights. Even when women are removed from toxic situations, they must still bear the burden of social stigma and economic hardship (Gunawardane, 2017; Parker & Creese, 2016; Pooja Rathi, 2018; Putra & Creese, 2016).

## 5. Discussion

This article has shown that women's vulnerability and lack of legal knowledge leads to them becoming commodified during the divorce process. These findings speak of two broader phenomena: the subordination and marginalization of women. These phenomena have their roots in three factors: the objectification of women, legal constructs that carry the potential for discrimination, and stigmatization.

### 5.1. The objectification of women in divorce proceedings

The decision to follow justice brokers' recommendations and file for divorce, even when this results in women losing their *mut'ah* and *nafkah iddah* rights, reflects their subordination. With their lack of legal knowledge, limited access, and vulnerability, women can easily be objectified by those with a better understanding of the situation. Unlike Curnow (2015), Nasir (2016), Nurlaelawati (2013), and Stiles (2003), who found that women in their respective research areas had a relatively good understanding and awareness of the law, such knowledge is lacking in East Lampung. Because of their lack of legal knowledge, women cannot access the diverse legal alternatives available to them, and even when they are knowledgeable and willing to object to their domination—as in the case in Lombok, West Nusa Tenggara (Nasir, 2016)—they are forced by legal and social constructs to take a more vulnerable position (Wijayati, 2020).

Justice brokers, even as they present themselves as supporting women during the legal process, treat their clients as commodities. The commodification of fear, which brokers frame as providing security and facilitating courtroom processes, results in the impoverishment of women. Rather than free women from unhappy relationships, justice brokers merely accelerate the formal divorce process (Haekal et al., 2020; Susylawati & Hasan, 2011), and this results in the social and economic marginalization of women. According to applicable law, women who file for divorce are responsible for all applicable costs (Law No. 7 of 1989 regarding Religious Courts, 1989). This subordination is influenced by the disparate power relations, wherein women feel that they have no choice but to follow the recommendations of the justice broker. Reflecting the arguments by Agarwala and Lynch (2006), Cornell (2015), and Maluleke and Nadar (2002), patron-client relations are established between brokers and clients, as brokers are perceived as having more knowledge while women are seen as lacking the ability to decide their best course of action. Such subordination is understood by Fakhri (2012) and Nurrofiyah (2020) as commonly experienced by women in patriarchal societies.

### 5.2. Extralegal institutions' involvement in divorce processes indirectly determines women's divorce rights

One form of marginalization experienced by women who initiate divorce is the abrogation of their property rights (Compilation of Islamic Law, 1991 article 148 b). Furthermore, even though Supreme Court Circular Number 2, 2019 states that women who file for divorce may receive their *mut'ah* and *nafkah iddah* rights, the label of "rebellious woman" (*perempuan nusyuz*)

remains a gateway to these rights' abrogation. When a divorce is granted, but women are not provided *mut'ah*, *nafkah iddah*, property, or child support, they suffer financially (Lindström & Rosvall, 2016). When initiating divorce with the assistance of a justice broker, women are responsible for paying not only court costs, but also brokers' fees. At the same time, by becoming claimants, women must abrogate their rights. In the context of proceedings, women may claim material rights during divorce, receive them after the divorce is legally binding, or determine them through a non-litigation approach. However, their struggle to claim these rights during divorce—either through litigation or not—is often unfruitful (Liu et al., 2017; Nurlaelawati, 2010; Van Huis, 2015, 2019a).

Women experience objectification through the construction of their relationships with brokers. This does not only stem from the legal mechanism of divorce filing, which has the potential to discriminate against women; it also results from the involvement of justice brokers, which tends to weaken women's position before the law. It is through this objectification that the suffering and weaknesses of women are commodified (Levesque, 2018; Vance et al., 2015). Justice is limited to procedural justice, without consideration of women's experiences with their families. This supports the finding of Nielsen et al. (2016) that women are rarely heeded in divorce proceedings.

### **5.3. The stigmatization of women after divorce**

Women divorcees are marginalized due to social stigma. The social stigma associated with filing results in women being blamed for the dissolution of their marriage (Gunawardane, 2017; Parker & Creese, 2016; Putra & Creese, 2016). Women are not only branded rebellious (*nusyuz*) within the courtroom, they are also ostracized due to the public's negative views of divorcees (Gunawardane, 2017; Putra & Creese, 2016). The involvement of justice brokers results in women being positioned as "claimants", and this is detrimental to their position in the eyes of the court and the society. This is reflected, for instance, in the court's questioning of claimants, often blaming the women who file for divorce (Gunawardane, 2017; Parker & Creese, 2016). Such blaming also reinforces and justifies the stigmas that exist in society. As such, although justice brokers' involvement in divorce cases is intended to facilitate the divorce process, it ultimately contributes to the stigmatization of women as the sources of discord in the family.

This exploration has provided a new perspective, showing that women's efforts to protect their constitutional and social rights by hiring justice brokers are ultimately detrimental to their own interests. The justice achieved through courtroom processes is merely a formalistic one, being defined not by the women seeking justice but by the brokers acting as third parties. Justice brokers tend to be more representative of men's interests rather than women's.

### **6. Conclusion**

The involvement of village administrators and other actors as justice brokers in the divorce process does not guarantee empowerment; ironically, it can reproduce gender roles and inequality. This article has shown that involving justice brokers in divorce proceedings can be injurious to women, exacerbating the discrimination they experience and replacing substantive justice with formalistic justice. Owing to their ongoing subordination, marginalization, and stigmatization, women's rights and identities are lost not only during divorce, but also afterward. As such, the involvement of justice brokers cannot guarantee the realization of women's welfare.

This gender analysis of justice brokers has revealed the hidden reality of their practices and involvement in legal processes. Unlike normative analysis, which has generally underscored the importance of village administrators in divorce proceedings, gender analysis has revealed a social construct that discriminates against women. Rather than achieve justice and legal certainty, women are simply granted a divorce, without any of the accompanying rights. In many cases, women experience significant stigma, not only during divorce proceedings, but also when reintegrating themselves into society.

This article has explored the reality of divorce, showing that the process weakens women even when third parties are involved. This paternalism can only be mitigated through education, which is necessary to improve public understanding of the law (especially amongst women). Knowledge and capacity must be cultivated not only amongst women, but also amongst the village administrators and actors who serve as brokers. Women require legal literacy to free them from their dependence on other parties, which stems primarily from their limited knowledge of legal processes. At the same time, legal support must be intensified to ensure that women achieve justice. Women require institutional support that prioritizes their interests during the divorce process. This article recommends a fundamental transformation of legal literacy amongst women, as well as a paradigm shift towards substantive justice. At the same time, women's organizations—long passive in the divorce process—must mobilize to provide women with support in their search for justice.

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