

Changes in Muslim Divorce Mediation in Indonesia: A Case Study of the Yogyakarta Religious Court

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Abstract

This article explores the current mediation of Muslim divorce in the Yogyakarta religious court in Indonesia. In 2008 the Indonesian Supreme Court introduced a regulation requiring that all courts should adopt a uniform mediation procedure. This study analyses changes in the mediation process in Yogyakarta since Nakamura conducted the Muslim divorce research in the 1970s. The research shows that the current mediation process, which is still in a transition stage, is a more systematic and formal procedure. This change is more appropriate for educated and middle class clients but not necessarily for the poor, especially poor women. However, the current system is more concerned about the rights of women and children. The article considers the implications of the secularisation of mediation in Muslim divorce such as the change of the administrative supervision of the Religious Court from the Ministry of Religious Affairs to general court practice under the jurisdiction of the Supreme Court where previously the judge did not have more roles than the religious leaders. There is also some tension between the new mediation system and Islamic mediation of the kind practised by BP4. The certificate mediator requirement has also eliminated the BP4 volunteers who are not eligible. The article concludes that a specific model of Muslim divorce mediation with suitable success indicators needs to be developed. It should also involve BP4 to recognise its experience in this area.

Keywords: Mediation, Muslim, Divorce, Indonesia

Introduction

Islam in Indonesia has been undergoing considerable upheaval in recent decades, as a result of changes in private beliefs and practices and as a result of efforts by the state to exert more control over Islam. Examples of state control since independence include the establishment of the Ministry of Religious Affairs, the Marriage Law of 1974, and the establishment of the Religious Court which is in fact an Islamic Court. Since the 1980s, there has been a resurgence of Islam, prompting further measures by governments aimed at both supporting and directing Islamic practices and institutions. One example is the 2006 transfer of Islamic courts from the Ministry of Religious Affairs into the secular system, under the umbrella of the Supreme Court (Law Number 3 of 2006). In Indonesia this is referred to as the 'one roof system' and it has consequences for Muslim divorce, a significant issue since more than 80 per cent of Indonesians are Muslims, in the largest Islamic country in the world (240 million people).

In this article I will examine one aspect of Muslim divorce in Java that has become 'secularised' and 'professionalised' following the introduction of the 'one roof system'. In the past in Java, when a Muslim couple intended to seek a divorce, female volunteers attempted

informal mediation between the couple before they took the matter to the Religious Court (Nakamura: 1983). In 2008, however, the Supreme Court introduced *The Supreme's Court Regulation Number 1 of 2008* requiring mediation to be part of the judicial process in any dispute, including divorce as a dispute along with other matters before all courts. One of the main aims has been to reduce the burden of cases in the judicial system, which may be problematic for divorce, as I will discuss. For the first time Islamic courts now have to undertake mediation as a compulsory part of divorce proceedings, in a process dictated by the Supreme Court, standardized for all disputes. Mediation is seen as a method of resolving disputes through the means of a negotiation process intended to obtain both clients' agreement with the assistance of the mediator. All mediators must be trained with professional certificates.

Mediation in Muslim divorce in the Indonesian Religious Court is still new and in the transition period. So far there has been no published research on how mediation is changing Indonesian Islamic divorce (O'Shaughnessy: 2008). The aim of my research was to find out how mediators in the Islamic court in Yogyakarta were adapting to the change in the divorce process. At present, all the mediators are judges in the religious court. Have they found that the new mediation procedures, with their lack of any religious content, are difficult to reconcile with Islamic views of divorce? Has the state's intervention in religious divorce reinforced or contradicted changing social views of Islamic marriage, which also influence the mediators? I sought answers to these questions through interviews with mediators in 2011. Interviewing divorce clients would give another dimension to the research, but this article focuses on the mediators' experiences, which are revealing in themselves.

In the broader Indonesian context, the 1974 Marriage law states that a marriage is legal if it is properly registered and based on law according to each religion and belief. It requires that divorce be processed by a court and there should also be an approved reason to get divorced (*Presidential Instruction of Indonesia Number 1 of 1991*). Is there an Indonesia Muslim notion of marriage and divorce which is being challenged by the new mediation procedure? The Indonesian Islamic icon of the family is *keluarga sakinah* (the happy family). Further, marriage in Islam is a part of *sunnah rasul* (prophetic tradition) and a form of worship which will allow couples to obtain *sakinah mawaddah warohmah*.¹ Marriage is also considered as a sacred institution and the only one that ensures that people can enjoy their lives.

In Islam, divorce² is allowed and in Indonesian Islam it has been quite common and relatively easy to achieve (Hull: 2012). Moreover, it has been common for divorced people to remarry, something which is encouraged by Muslim leaders. Nevertheless, Islamic authorities like Shihab (2012), a prominent moderate preacher in Indonesia, claim that divorce is not recommended and is only allowed in emergency situations, with a function similar to the emergency exit doors in an aero plane or the last resort for married couples. Before resorting to divorce, the couple should make every effort to save their marriage such as through

¹The term means the happy family where the couple love and feel comfortable with each other.

²Key terms in Islamic divorce are: *talak* (an enunciation of divorce by a husband before the Religious Court); *rujuk* (reconciliation between husband and wife with specific requirements and rules) and *iddah* (the waiting period for women of 90-130 days, after which they may remarry).

mediation. In Islamic law, mediation is based on the Quran (4: 35), which explains that if a family worries that there will be contention, a *hakam* (a trusted man) may be sent from the husband's or wife's families. The verse implies the possibility of mediation to resolve marital problems including divorce. In the modern context, mediation can be performed not only by the family but also by social institutions such as courts and marital counselors (Ciciek, 2008). Therefore, mediation has an important place in the Indonesian Muslim context.

Before the enactment of the mediation regulation in 2008, Muslim divorce mediation was handled by *Badan Penasehat Perkawinan dan Penyelesaian Perkawinan*, (BP4, the body for marriage counseling and divorce settlements), an institution which was closer to Indonesian society than the Religious Court. Accounts from the 1960s and 1970s showed that BP4 members were female volunteers who were religious leaders, respected by the community for their commitment and wisdom, with relatively high education levels for that era (KUA Banyuglugur: 2011; Nakamura: 1983). They conducted mediation in informal places, like the mediators' homes, and BP4 was connected to the *Office of Religious Affairs (Kantor Urusan Agama or KUA)* (Nakamura: 1983). KUA was the place to register marriages, divorces, and reconciliation among Muslims, and the Religious Court was the place to resolve issues concerning marital dissolution. Since the Indonesian Marriage Law of 1974, the Religious Court has handled divorce cases while KUA handles the marriage process and registers divorces which are approved by the Religious Court. However, until 2008 BP4 at the district level remained the only divorce mediation institution (KUA Banyuglugur: 2011).

The Religious Court has now taken over the civil society role in the new Muslim divorce mediation. Based on the mediation regulation of 2008, mediators in any judicial process, including divorce cases, are required to pass a mediation course administered by an organization approved by the Supreme Court. The role of BP4 has decreased significantly because most of its mediators do not hold a mediator's certificate. Even if the BP4 at the district level mediates for clients seeking divorce, this mediation is not acceptable in the Religious Court. Hence, the mediators have also changed from being volunteers to becoming professionally accredited.

The new system has pressured judges in the religious court to take on the unaccustomed responsibility of mediation. While judges and the clients are not equal in the judicial process, they are supposed to be equals in the mediation process. Hence, the change in Muslim divorce mediation will partly depend on the mediators' willingness and ability to perform according to the new rules.

The behavior of mediators in Islamic divorce can be expected to reflect not only legal regulations but also social change, as well as how the Indonesian state has constituted marriage through the Marriage Law of 1974. The 1974 law, although conservative in many ways such as in its assertion of men being the head of families, attempted to discourage polygamy among Muslims, while making divorce more accessible to women. Studies by Situmorang (2012: 85), Jones and Gubhaju (2012: 53), Guest (1991), and Heaton, Cammack, and Young (2001: p. 480-490) have also shown that socio-economic changes in Indonesian society have influenced marriage and divorce patterns, resulting in higher ages of marriage and declines in divorce rates. Further, since the end of the Indonesian New Order regime in

1998, the promulgation of laws to eradicate domestic violence (*Indonesian Act Number 23 of 2004*), protect children (*Indonesian Act Number 23 of 2002*), and eradicate human trafficking (*Indonesian Act Number 21 of 2007*), are likely to influence the practice of Muslim divorce mediation. In addition, the roles of Non-Government Organizations which are working to increase gender equity may influence the Judge mediators' experiences and opinions in the mediation process. Thus, by exploring the changes of mediation in Indonesian Muslim divorce, we can gain insights into the relationships between Islam, state and the society, and in particular how these affect judges in the Religious Court.

The mediation process in practice

In this section I explain the practice of mediation when both clients want a divorce, and the benefits and challenges of Muslim divorce mediation in the *Religious Court of Yogyakarta*. My data comes from interviews with ten judge mediators in the religious Court of Yogyakarta, an external mediator who is registered in this court, the program coordinator for mediation training, the *Women's Study Centre* of the Islamic State University *Sunan Kalijaga* in Yogyakarta, and the Secretary of *Pusat Mediasi Indonesia (Indonesian Mediation Centre)* at Gadjah Mada University which conducts mediation courses and examinations. To maintain confidentiality, I will use letters of the alphabet instead of participants' names in regard to some sensitive issues.

The *Religious Court of Yogyakarta* is located in the Yogyakarta municipality which in 2000 had almost half a million inhabitants (Pemda Yogyakarta, 2002). This court is led by a male senior judge, the vice chief of the court is a female judge, and in addition there are two female and seven male judges. Further, there is a male external mediator enrolled in this court, Naya Amin Zaini, SH, MH (law degree and master degree in law). Among the religious judges, only two male judges had completed the mediator course held by the Supreme Court. Others had studied mediation through self learning or participated in short courses and workshops focusing on mediation, such as training assistance for perpetrators of domestic violence provided by Rifka Annisa (2012), and training conducted by the Supreme Court. Although some judges did not have any certificate to lead mediation, they have done so in ways which, as we shall see, reflect various understandings of mediation.

The mediator training conducted by the Supreme Court consists of a 40 hour curriculum and it is similar to the mediation courses run by *Pusat Mediasi Indonesia* in Gadjah Mada University in Yogyakarta as one of the selected organization to run the training. However, so far there are limited numbers of such courses and the August 2011 course was the eleventh course which consisted of 50 judges from general courts and 50 from the religious court (Adib: 2011). The prerequisite for taking the mediation course is a diploma in any subject and this course costs about 4-6 million rupiahs (equal to US \$464-\$670)(Suryono, Zaini: 2011).

The mediation training materials combine theory and practice for each session and the course ends with written and practical examinations. As noted, this course is not specifically designed for the Religious Court. Specialization occurs only in the group discussion while everyone participates in the same general sessions. The participants perform role-play and simulation, and practice specific skills of mediation such as simplifying language,

negotiation, and *caucus* meeting skills (separated meeting with one client) (Adib: 2011). The content materials in this course are Implementation of the 2008 Regulation, Introduction to Mediation, the Mediation Process, Mediating Techniques, Mediation Skills, Reframing, Individual Mediation, Mediation for Multiparty Disputes, Formulation of Dispute Resolution, Negotiation, Conflict Analysis, and *Chotei* Facilitative (Japanese model mediation) and Human Relations Coordination (Mahkamah Agung: 2011). According to Saifurrohman (2011), a judge mediator, and Suryono (2011), Japan is becoming the mediation model in Indonesia because of its fame as a non-litigious society: Indonesia also wants to avoid the proliferation of lawsuits.

Disputing clients start mediation on the first day of the case-hearing process and are free to choose either internal or external mediators (Saifurrohman: 2011). There is no charge for internal mediators, while for external mediators the clients have to pay a mediation fee. According to my informants, few clients choose mediators by themselves; most ask the panel of judges to choose for them, and the judge on duty who has no judicial activities on the day will be the mediator (Syamsuddin & Tojibi: 2011). Up to the time of my interviews, no one had asked for an external mediator even though the mediation fee can be adjusted according to the clients' means (Zaini: 2011).

The length of time allowed for mediation is 40 days, extendable for a further 14 days, which the mediators consider sufficient for most mediation cases (The Supreme Court Regulation of 2008). A mediation meeting may take 15-120 minutes depending on the level of the clients' problems. In the case of a couple who insist on a divorce and state that there is no possibility to remain husband and wife, mediation will only take place for one meeting or two at most (Adib & Tojibi: 2011). For those who have decided to get divorced but agree to discuss their problems, the mediation time may take three to five meetings (Syamsuddin: 2011). If it is possible for a couple to reconcile, mediators will discuss many aspects with them and the couple may ask for an extension of time, during which they may ask a respected person to strengthen their relationship (Syamsuddin & Fauziyah: 2011). The clients may then reach an agreement to continue their marriage or choose not to. In addition, mediators will report to the panel judge whether the mediation succeeded or failed to achieve agreement (Pengadilan Agama: 2011).

Regarding current mediation facilities, some mediators said that the mediation rooms needed to be improved. Because one of the two rooms designated for mediation is being used by the center for legal aid for poor clients organized by Rifka Annisa, sometimes mediators and clients have to wait (Tojibi: 2011). The only room available for mediation is a closed room with a door and a small glass window in a high position which is risky for male mediators meeting with a female client because the client may possibly accuse them of abuse (Saifurrohman: 2011). This confirmed Salamah's finding that one of the Indonesian mediation system's weaknesses was the availability of suitable facilities (Salamah: 2009).

The absence of one party in the mediation process will delay the process because mediation requires two clients (Saifurrohman, Adib, Fauziyah: 2011). It differs from the process in the court where a case can proceed without one client attending. It is possible to call the absent client and the cost of doing so is the clients' responsibility. J and K will ask the

client who is present to call the absent one to attend the next mediation session. The possibility of summoning clients to the mediation process has not been applied in Yogyakarta's Religious Court. Even though the Religious Court is equipped with modern communication technology, they do not use it to mediate a client who may be some distance away.

As explained above, mediation is a requirement for disputing clients who come to the Religious Court, and seeking a divorce is regarded as being a matter of dispute even if a husband and a wife both want to dissolve their marriage. Therefore mediators will still practice mediation even though the clients are determined to get divorced. They will remind the couple that marriage is goodness and a part of worship; divorce is allowed but it is hated by God and it is only an emergency exit (Fauziyah, Tojibi, Idris, Ulfah: 2011). Mediators will also seek the reasons for divorce. Sometimes a client says they have an economic reason for divorce whereas in fact, the reason is the presence of a third party, which may be solved (Idris, 2011). If the reason is only related to one client making an error, the other client will be asked to forgive them (Adib: 2011). O'Shaughnessy (2009: 89) stated that female divorcees in Indonesia experience shame, unlike divorced men. Mediators will also remind the couple about the effects of divorce, such as different status, future life, and the future of children who may then have a step-father or mother or step-siblings (Saifurrohman, 2011).

If the clients are truly determined to end their marriage, mediators will remind them about their rights and duties. If they have children, both husband and wife should be responsible for taking care of them regardless of child custody rights that might be decided upon afterwards (Ahmad, Fauziyah, Idris, Saifurrohman, Syamsuddin: 2011). The couple is told that although there may be an ex-wife or husband, there will be no former children. Children need love from their parents even if they are divorced. Fathers have the responsibility to support their children's livelihoods. Mothers are also prohibited to hinder their children from meeting with their father. Mothers and fathers must not poison children's thoughts about their parents and in addition, the father will always be the guardian of his children (Zuhdi, 2011).

In the case of divorce initiated by the husband, mediators will remind the husband about his duty to give *nafkah iddah*³ and *nafkah mut'ah*⁴ to his wife. Both clients can discuss how much money the husband will give to the wife, and the husband's financial ability will be taken into account. In a case where the divorce has been initiated by the husband due to his fault and not because of his wife's intention, a female mediator, Ulfah (2011) reminds the male client, that he should give money to his wife to provide possible venture capital for an economic enterprise through which she can support herself and her children if necessary. Further, the mediator will remind clients to keep *silaturahmi* (a good relationship of brotherhood) (Ulfah: 2011). They may get divorced but should do so amicably and not seek revenge on each other.

³*Nafkah iddah* is a divorce settlement to support the wife during the *iddah* period, a period that a wife cannot marry another man, which is three menstruation periods or 90 days.

⁴*Nafkah mut'ah* is a gift from husband to wife as the symbol of ending the relationship.

Arising from the mediators' explanations of their practice, there appear to be three benefits for clients and for Indonesian society. Firstly, clients will be aware of the effects of divorce, which they may not have really understood and they may not have thoroughly thought about their lives after divorce (Adib, Zuhdi: 2011). Secondly, in the mediation process the problem is explored deeply and mediators can influence clients by suggesting other possible solutions. If there must be a divorce, it should be as amicable as possible (Ahmad, Fauziyah: 2011). Thirdly, if the agreement within mediation is enforced through the court's decision in the judicial process, the *akta perdamaian* (the reconciliation document) will have executorial power in the legal system (Syarifurrohmah: 2011). Fourthly, two mediators said that even though the number of divorce cases withdrawn by clients was low, mediation is an effort to reduce the number of divorces even though one mediator considered that the incidence of divorce has gradually increased (Syamsudin, Tojibi: 2011). In Yogyakarta's Religious Court, the number of divorces gradually increased from 300 in 2000 to 527 cases in 2010 (PA Yogyakarta: 2011). According to *Badan Peradilan Agama* (BADILAG, Religious Court Institutions), in Indonesia the number of divorces approved by the Religious Court increased significantly from 175,088 in 2007 to 223,371 in 2009. The data from Yogyakarta's Religious Court showed that during 2000-2010 women initiated 68% of divorce proceedings (Sumner, Lindsey: 2010).

The challenges of mediation are related to the clients, the process and the mediators. In terms of the clients, the challenges include when clients refuse to be mediated because they want to get divorced quickly or consider that they were already adequately mediated by BP4 (Ulfah, Adib, Syamsuddin, and Zuhdi: 2011). Further, some clients do not want to come to the mediation and or to speak about their problems; alternatively, they may speak honestly in the mediation but not during the court process (Ahmad, Tojibi, Ulfah: 2011).

In terms of the process, the challenge is that mediation in the Religious Court occurs too late because most cases which have reached the court are at a very acute stage (Syamsuddin: 2011). Another problem is the indicator of success in mediation. As noted above, one of the aims of the 2008 mediation regulation is to reduce the number of court cases and the success of mediation in Yogyakarta's Religious Court is supposed to be indicated by the withdrawal of divorce petitions. If so, during January to September 2011, the period for which I was able to obtain statistics, the level of mediation success was very low, never reaching 4% per month (Syamsuddin: 2011). C, K, B, H, L, E, and J, argue that the withdrawal of divorce lawsuits is not the only indicator of successful mediation. In divorce cases, there are associated cases such as division of property, caring for children, *nafkah iddah* and *nafkah mut'ah*. G said that clients may refuse to be reunited, but if they agree about the consequences of divorce and they process their divorce amicably, this can be categorized as a success. K, D, E, B, C, and H consider that one indicator of success is when clients become aware about the effects of divorce, because this is likely to reduce negative outcomes.

Some mediators (B, E, C, and D) felt that their double role as judge and mediator was problematic. They said that the burden on judges has been augmented by mediation. According to them, even though the 2008 regulation stated that judges who successfully perform the function of mediator will receive incentives, up to now there has been no additional incentive for this job while external mediators will be paid. (As against this, it should be noted that one result of the religious courts moving from the jurisdiction of the Department of Religious Affairs to the Supreme Court is that religious judges are now remunerated according to the salary scale of other judges, which represents a considerable pay rise.) Further, the trained mediators are limited in number; there are only two formal mediators and three judge candidates who are being trained but have not practiced up to this point (Syamsuddin: 2011). Some of these challenges were mentioned by Salamah (2009: 271) in her research on mediation, namely, clients who do not want to be reconciled; or who come to the court with the intention of obtaining a decision; and the lack of additional payment for mediators.

Muslim divorce mediation is still in the early stages, as reflected in the limited number of judge mediators possessing a certificate, the lack of space facilities for mediation, and the lack of understanding by clients of the mediation procedure. Other problems identified by the judge mediators relate to the success indicators of mediation, and the fact that the divorce cases which come to the court are in the acute stage which makes it difficult to reconcile the clients. It is notable, however, that although the current mediation process is based on the secular justice system, the basic intention of discouraging divorce is compatible with Islamic values.

Judge mediators' experience in the Muslim divorce mediation

This section will explore the values that judge mediators reveal in their comments on mediation. In particular it discusses how, in the mediation process, they explain their role, how they respond to the issues of gender equality in the family and polygamy, and the family values they emphasize. The varied responses reflect to some extent differences in adapting to a new procedure, but they may also reflect different responses to new social pressures on judges.

Variations in the mediation procedure

There are no practical guidelines on how to conduct the mediation process in the Yogyakarta Religious Court even though the two certified mediators share their mediation knowledge with their colleagues. Hence, mediators have their own understanding and perspectives about it which affect the quality of mediation. Based on the judge mediators I interviewed, there are three types of mediation practices.

The first type consists of those who treat mediation as not really being different from the case hearing process. This group uses legal terms in their mediation. For example, N opens the mediation by asking 'the plaintiff' (i.e. the one suing for divorce) to read her or his suit,

thus treating the matter as a legal dispute; F gives a short introduction similar to the case hearing process; N emphasizes that the mediation process is similar to the case hearing process and mediators do not need to introduce themselves to the clients; L starts by reading the plea of the prosecuting client.

The second group consists of those who treat mediation as different from the case hearing process but they do not fully follow the mediation procedure set out by the 2008 regulation and the training course. K, C, and E aim to create a mediation situation comfortable for the clients such as by explaining that mediation is a place for sharing, and that they should not interrupt each other. As for content, they will remind clients about the effects of divorce by referring to other people's feelings in similar situations, and to the rights and duties of husband and wife after divorce.

The third group consists of mediators whose practice is based fairly strictly on the mediation guidelines, at least according to their accounts. Even though H and J have not yet taken the mediator course, they explained the process to me in detail. These judges start mediation with an opening introductory statement, reminding clients that mutual respect is required in mediation, and explaining that mediators are not there to judge, force or deter the divorce process but to find common ground that may support the couple to reunify. They emphasize that the mediation is free of charge. D and B said that the mediation process is similar to a bargaining process through which the best solutions are found and that the process ensures that both husband and wife are winners.

Some mediators use *caucus* meetings or individual sessions to pursue deeper discussion are in serious conflict and it is dangerous to bring them together (Zuhdi: 2011). Clients may be under considerable pressure, perhaps suffering from domestic violence (Idris: 2011). Caucus meetings can facilitate the discussion of divorce consequences such as joint marital property and caring for children with one client under the consent of both (Ahmad: 2011).

Thus, although there is a regulation about how mediation should be conducted, the judge mediators' practices differ. This situation will affect the quality of mediation and clients will receive different treatment.

Mediators' opinions on gender equity in the family

Mediators' perspectives on equality between husbands and wives are important to ensure equal rights during the mediation and divorce process. I found three perspectives among mediators on gender relations in the family. The first perspective refers to the classical and textual interpretation of the Quranic text that men are the leaders of women. Critics of this view point out that it does not take into consideration the complete Quranic verse which requires that 'men give the living allowance to the wife' as stated in Quran (4:34)(Umar, 2011). According to this group, the husband fulfills the authoritative role of the family head without any requirements or exceptions. Only one judge, L, takes this approach. L states that even if

a wife has a higher salary than her husband, she should respect her husband. L adds that she will have more power and the husband will be under pressure. Hence, the husband may ask for divorce. L's views demonstrate that patriarchal values still exist among the Islamic judiciary. However, in terms of practice, L moderately notes that households should be run on the basis of an agreement between husband and wife.

According to the second perspective, a husband and wife are equal; however, sometimes they are treated unequally during mediation. N explains that husbands and wives should have mutual respect, and guard their partners' reputation. N considers that domestic chores are the responsibility of both clients, although N noted that middle class Yogyakarta families often pay someone to take care of all household activities. K agrees with N that a husband and wife should help each other, show tolerance, understanding and forgiveness, and be aware of their duties and rights. K even asks why in religious meetings there is often the mention of *istri yang sholehah* (a pious wife) while it is rare to ask men to be pious husbands. K adds that if a husband wants intercourse, he should ask his wife whether she agrees or not, and does not assume that '*sek penting kowe, kapan pun aku butuh kowe kudu siap*' (the important thing is that when I need you, you should be ready). In contrast, N considers that if a husband asks his wife to fulfill his biological needs, the wife should comply because it is her obligation. If she does not, then he will become angry and it will affect other matters. K mentions that a husband may have affairs because his wife is tired from looking after her family and doing domestic chores and no longer cares for her body, with the result that she is no longer beautiful. These two examples show that while the gender equality perspective to a certain extent has influenced these mediators, some still regard women as being unequal to men and thereby neglect the imbalance of power relations between the clients.

The third perspective is held by mediators who demonstrate consistency in their understanding and practice relating to equal relationships between husbands and wives. F and H say that a husband and wife should give and take mutually and fulfill their duties and rights based on agreement. Further, E and J explain that a couple should have mutual trust, support, and togetherness and shared responsibilities. According to D, equality means that no one is superior; thus, family members should communicate well and reach mutual agreements about family matters including the division of responsibilities. B adds that a husband and wife are partners who should have mutual respect without exerting power. In this connection, B notes that it is unfortunately common for a husband to undermine his wife because he feels more powerful in the family, and because of the male ego. Another mediator, C, states that it is not taboo for a husband to change babies' nappies; B, H, E, and J also state that as husbands, they perform domestic tasks at home, thus rejecting the view, held mainly in Java, that the wife should be *konco wingking* (a partner whose place is behind the scenes) who conducts all the domestic chores. F explains that in one case a woman initiated divorce because she could not satisfy her husband's needs to serve him in the traditional way because

when she arrived home from work, she was immediately busy caring for their children. B, E, and F said that nowadays more women are educated and are aware of their rights. This group shows that they are more aware about the need for equality between husbands and wives.

The judge mediators' perspectives reflect the spread of notions of gender equity in Indonesian society. The fact that only one of ten mediators still insists on the traditional relationship between men and women is evidence that society is changing in favor of increased gender equality in the family. The second group accepts gender equity in principle but in practice they still have some biased attitudes. The third group highlights the effect of widespread campaigns for women's rights in Indonesia since the 1990s, whereby many people have begun to treat women as equals in the domestic arena. The mediators' descriptions of their own domestic activities illustrate the apparent changes among one educated group, moving away from Javanese cultural values that relegate women to *sumur*, *pupur*, *dapur*, *dan kasur* (wells, face powder, kitchen and mattress).

The more moderate judge mediators recognize gender equality in the family unit as part of changes in the Indonesian middle class. They represent a group of educated people who have garnered extensive information and exposure to ideas through both formal and informal education. The involvement of some mediators in workshops such as a domestic violence workshops run by the women's organization Rifka Annisa has influenced their perspective on equality in the marital relationship (O'Shaughnessy: 2008). In my research I found that mediators' age is an important factor which influences their perspectives on gender equality, while gender itself is not influential. The younger mediators are more at ease with ideas about gender equality, and male mediators also have an awareness of equality.

Mediators' opinions on polygamy

Polygamy, a very controversial matter in Indonesia, is allowed in the Indonesian Marriage Law but is rare in practice. According to Azra (2003: 89), before the enactment of the Marriage Law 1974, 5% of marriages were polygamous. This percentage probably decreased after the Marriage Law which made polygamy more difficult, although there are no reliable statistics on the matter (BADILAG, 2010).⁵ The basic legal requirement is that the husband should be able to treat both wives and children justly (KHI, 1991). In addition, according to KHI (the Compilation of Islamic Law, verse 55), the conditions under which polygamy is permitted are when the wife cannot fulfil her obligations as a wife; if a wife gets a disability or disease that is incurable; and if a wife cannot give birth to offspring. When I asked the mediators about wives who wanted a divorce because they did not want to be in a polygamous marriage, I found there were three types of responses, from those who agree with polygamy, from those who accept it in an 'emergency situation', and from those who disapprove of it.

⁵Although there are no national statistics on rates of polygamy, it may be significant that in the Yogyakarta Religious Court, during the period January 2009-March 2010, there were only two approved cases of polygamy out of a total of four polygamy application cases.

The first group accommodates what they call 'healthy polygamy' so long as it still recognises and obeys the legal/religious requirements. D insists that polygamy is an exception to the law which complements general law. In D's opinion, unhealthy polygamy is when the husband takes another wife because of carnal desire and the second wife does not truly love the husband. Some Muslims who interpret Islamic teachings textually assume that polygamy is *sunnah*, an activity which was undertaken by the Prophet Muhammad and if the followers adhere to it, God will reward them. D reminds clients that in Islam, marriage is a part of *sunnah*, but polygamy is not considered in the same light, although it is permissible. D states that polygamy nevertheless requires high responsibility. N also reminds the male client that he should share his time, maintenance, and attention equally between the first and second wives. F also asks clients who say they want a divorce because their wife has not borne children, 'If you do not have children why don't you just adopt orphan children?' L also reminds the male client that it is hard to be just and L quotes the *hadits* (prophetic tradition) which says that an unjust man with two wives will be resurrected in the hereafter with a bent back which is very painful.

The second group of mediators will only suggest polygamy in emergency situations such as when the wife becomes permanently disabled. K mentions a case where a husband was allowed to take a second wife because his first wife was permanently disabled (bed-ridden) after the Yogyakarta earth-quake in 2007. The wife's family agreed to the husband taking another wife because they knew the second wife, who promised to care for the first wife. In another case, E asks a wife who lost her womb to agree to her husband being polygamous.

The third group of mediators disapprove of polygamy. C asks the husband, 'Why should you undertake polygamy which will not always make you happy? It may be just your carnal desire, because after all you already have a nice wife and children and you should take responsibility for your current marriage'. B will interrogate the male client who has a desire for polygamy and ask, 'Is not one wife enough for you? Do you feel that you will lack God's rewards if you marry only one wife? If you want to perform polygamy like Muhammad, is your life the same as that of Muhammad who spent his time delivering God's religion?' J emphasises that no woman wants to be part of a polygamous marriage except under pressure.

The mediators' responses to polygamy illustrate that the understanding of gender equality is currently changing. Nurmila (2009: 42-45), writing about contemporary polygamy in Indonesia, categorises three perceptions of polygamy: that of the textualists who accommodate polygamy, the semi-textualists who resist it and the contextualists who reject it. These terms refer to approaches to the religious texts whether they are interpreted literally or in context. In fact, for the textualist, fair treatment of the wives and children in polygamy is only implemented in terms of financial matters; they neglect children's and wives' emotions, views and well-being (Idrus: 2012). Even though some mediators agree with polygamy, they still bear gender equality in mind which means they fall into the semi-textualist group. That

some mediators disagree with polygamy reflects a well-entrenched view in Indonesian society, now often expressed even in devoutly Islamic circles. Progressive Islamic scholars like Musdah Mulia (2011) portrays polygamy as an attitude that hurts and betrays the partner. She argues that in fact Islam asks its followers to treat other people in a good way, *ihsan*, and to adopt *akhlakul karimah* (good attitude). Shihab (1992), a prominent moderate preacher, declared that women who reject polygamy cannot be said to be sinful or to have rejected the commandment of God. According to Sodik (2011), a member of Women's Study Centre of the Islamic State University Sunan Kalijaga in Yogyakarta, many cases show that women accept polygamy under pressure; hence the mediator should investigate carefully.

The family values held by mediators

My interviews revealed a number of values influencing mediators during Muslim divorce mediation, values that reflect Islamic attitudes about families in favor of fulfilling duties and rights reciprocally, marriage and divorce in peace and amity, religious values as the basis of family values, marriage commitment, sacrifice and forgiveness, and opinions about children and custody.

Mutual fulfillment of duties and rights is viewed by mediators as essential for a happy marriage. B says that every client should fulfill marital duties proportionally and in balance. The traditional view of marriage in Islamic teaching is that a husband should provide a living allowance for his wife and children; if he does not do so, this is a justifiable reason for divorce. In fact many wives ask for divorce on the grounds that their husbands have not provided living allowances for them. H and B, however, insist that husband and wife can work together to support their family, and that traditional values on this are not always relevant. In addition, the fulfillment of husband's duties applies not only during marriage, but also after divorce such as duties to fulfill *nafkah iddah* and *nafkah mut'ah*.

The central value emphasized during the current mediation process is that if a couple dissolves their marriage, the divorce should occur peacefully and amicably. K also adds that a divorce should create a feeling of relief (*lapang*). In addition, according to J, H, and K, divorce should be a 'win-win solution' that makes every client feel peaceful in his or her divorce. B also maintains that if a couple with children divorce peacefully, it will have a positive effect on their children. E explores the notion of *cerai dengan ceria* (cheerful divorce) in this statement:

Divorce in peace. If I cannot help the clients' family, I only give one piece of advice: divorce cheerfully. It means 'with a feeling of mutual relief' [said in Javanese]. It means: I really do have to get divorced because we could not agree, but we reached a cheerful divorce with mutual relief, right.

Two points considered necessary for peaceful divorce are amicable feelings after divorce and maintaining a good relationship. L, H, and B also add that if the couple does dissolve their marriage, it should be a happy divorce without revenge, hate or resentment.

Further, J, L, H, and B state that if couples have decided to dissolve their marriage, they should keep *silaturahmi* (a good relationship) with each other. Hence, divorce may happen but mediation will limit the negative effects of divorce; the clients will divorce amicably. A peaceful divorce is important to reduce hurt feelings generated during the divorce and the negative effects of divorce in general.

Mediators base their practice on Islamic teaching in which religious values are the basis for developing family life. The judge mediators N, H, and D consider that religious understanding and consciousness are the basic values in family life. N adds that religious consciousness will guide people to have good behavior (*akhlak*) because religion provides rules for life including married life. H also adds that religion will guide the morality of the family. D and H remind the clients to pray five times a day because prayer is the pillar of religion; if they do not perform prayer, it is similar to a house without a pillar. Hence, their mediation practice is still rooted in Islamic teaching even though this mediation procedure is part of a secular judicial system.

According to the mediators, marriage is a commitment between two people to maintain a family. Commitment means maintaining the marriage whatever the problems are. It is expressed as mutual trust, openness, and open communication, accepting one's partner as he or she is, maintaining love and the unity of the family, wishing to improve oneself and giving mutual support. For example, H explains that every human being has weaknesses and strengths, so partners should support each other to improve their characters rather than making their weaknesses the source of the problem. H concludes that mutual support is the practice of strengthening commitment as the function of family. J and C state that when a husband often has affairs, there is a problem with their marriage commitment. Equal commitment of husband and wife is essential to maintain a happy family.

Sincerity means sacrifice and forgiving each other in order to maintain the current marriage. I found that the mediators regarded sacrifice as being the effort needed to save family unity. If the husband cannot provide a living allowance which people believe is required according to Islam, the wife and husband can work together; reducing egoism is also part of sacrifice. These cases demonstrate that forgiveness and sacrifice are considered necessary to maintain the marriage. However, this attitude may cause gender inequality in the family if the sacrifice is always expected only of one partner.

A new value in the current divorce mediation process is concern for the lives of children who are directly affected by divorce. Although Indonesian marriage law does not require this, E will ask a couple to think about their children before they divorce. B and F also suggest the clients think about the future of their children's education, psychology and their relationship with their parents. D states that if the parents get divorced, it will be very hard for their children to be good and pious people or to be successful. All mediators consider that when considering the custody of children in the mediation process, the children's best interest is the basic value. E stresses in the mediation that, if possible, custody of children

should not be a matter for dispute because children are God's mandate. In addition, H and L remind couples that the parents' duty to children lasts forever, regardless of divorce. This situation reflects greater awareness of children's rights in the Indonesian society, as demonstrated by the enactment of the child protection law of 2002 and the creation in the same year of *Komisi Perlindungan Anak Indonesia* (KPAI, the Indonesian Commission for Child Protection).

The differing practices of mediation in Muslim divorce reflect the differing understandings and values of the judge mediators. Value changes in Indonesian society relating to matters such as awareness of children's and women's rights have influenced the opinions of most judges in the mediation process. In general, however, despite variations, they do not seem to have felt any difficulty in reconciling Islamic values with divorce mediation, even though it is now part of the secular system of mediation.

Implications of the new mediation system

Finally, I will discuss the implications of mediation for the judge mediators to whom this system is still new. As we have seen, divorce mediation in Yogyakarta is now conducted by judges in the Religious Court, only a few of whom are qualified mediators. Islamic judges have had to accommodate a number of changes in their circumstances since Indonesian independence. According to Cammack and Feener (2012), well established scholars of the Indonesian Islamic legal system, until the 1970s most Religious Courts, especially those outside Java, had only one full time judge assisted by a prominent religious leader who was not a staff member of the Religious Court. After the promulgation of the 1974 Marriage Law, the judges became civil servants. The current judges hold degrees in Islamic Law or in General Law with an understanding of Islamic Law based on the *Law Number 50 of 2009*. Before their appointment as judges they are supposed to undertake judge training of a period of 2-3 months and undertake a three week pre-service education course, and this requirement is similar to other judges under the Supreme Court (Nurlaelawati & Rahim: 2012). Furthermore, according to Adib (2011), a judge mediator, the new generation of graduating judges also pursue mediation training to receive formal mediator certificates. These changes are intended to increase the quality of mediation.

The 'one roof system' of courts has made judge mediators in the Religious Court more professional in their work. Daily attendance from 8 am to 4.30 pm from Monday to Thursday and 8 am to 5 pm on Friday is monitored by compulsory signing in at the finger print scanner. Now that their salaries are the same as those of judges in other courts, and are considerably higher than the salaries they received under the Ministry of Religious Affairs, they are expected to prioritise their work rather than their religious duties or the pursuit of other income as occurred in earlier times. However, this professionalization does not automatically mean that judges conduct divorce mediation in the manner expected by mediation trainers. Judges are more influenced by their core role as judges than by their supplementary new role as mediators. In fact, as we have seen, some judge mediators practise mediation as if it were

a case hearing process. After all, so far only two judges in the Yogyakarta Religious Court have mediator certificates. Some judge mediators argue that previously they always mediated their clients as part of the case hearing process. However, the current mediation process requires a more equal relationship with clients compared to the hierarchical judicial process.

As mentioned earlier, in the past, Islamic mediation counselling was provided by BP4. According to Sanusi (2011), the head of the BP4 in Yogyakarta, currently BP4 has five male and eight female mediators, a gender balance that is more equal than is seen in Yogyakarta's Religious Court which has three females out of a total of eleven judge mediators. In the case of the Yogyakarta's Religious Court, professionalization means proportionately fewer women divorce mediators. Indonesia was one of the first Islamic countries to appoint female religious court judges, yet they still face obstacles (Lev: 1972). In 2011, 23% of judge mediators in the Religious Court were female and 7% were women in the Appeals Court (Hermansyah: 2012). One consequence may be that the court is dominated by masculine values; at the very least female clients may feel their views are not treated sympathetically. As more judge mediators get involved in gender equity workshops, it is likely that they will become aware of the importance of equality in the family life; having equal numbers of male and female mediators would render it more likely that female clients are treated as equal to men. At least in the near future, however, the professionalization of mediation is unlikely to lead to equal numbers of female and male judge mediators. In this respect there has been regression compared with the old system under BP4.

Another implication of the new system is the effect on the religious role of judges in the Religious Court. Before the Religious Court moved from being under the supervision of the Ministry of Religious Affairs to the Supreme Court, their judges also played roles as preachers and as religious leaders in society. C, a judge mediator, said that some judge mediators had their own *pesantren* (Islamic boarding school), or informally assisted students of Islam and assisted in some routine religious meetings. Now that they are under the jurisdiction of the Supreme Court, judge mediators in the Religious Court have to clearly differentiate their roles as judges and preachers. In current divorce proceedings H, a judge mediator, said that judges are not supposed to give advice during the case hearing process but judges should give opportunities to the disputing clients to reconcile up to the final decision. Previously, when they pursued concurrent roles as preachers, the Religious Court judges used to provide advice. Further, C explains that under the 'one roof system', judge mediators should spend all day in their office. Consequently, they lose the opportunity to deliver religious speeches at Friday prayers, to participate in religious meetings which are often held after *Ashar* prayer (around 3.30-5 pm), and to teach. C also said that when the court was controlled by the Ministry of Religious Affairs, career promotion might recognise the role of judges as religious leaders, namely leading a *pesantren* or Islamic preaching activities. Yet under the Supreme Court every judge candidate has to sign an agreement to be stationed in any part of Indonesia, which would preclude them from running a *pesantren*

(Nurlaelawati & Rahim: 2012). Thus under the one roof system, the judge mediators are forced to be professional civil servants. This may well mean that they become less overtly Islamic in their court practice, including in divorce mediation.

Conclusion

What I observed in my research was a group of religious court judges in Yogyakarta struggling to come to terms with the latest pressures from state and society. From a recent past in which they combined the roles of religious leader and judge, presiding over Islamic divorces, they now find that they have to comply with Supreme Court regulations that apply to all judges, religious or otherwise. Their opportunity to play a role as religious leaders is shrinking. At the same time, changing social values pressure them to reinterpret their approaches to the institutions of Islamic marriage and divorce. This is all reflected in what the judge mediators told me about their practice of mediation in divorce.

The intervention of the Indonesian state in the practices of the Religious Courts represents yet another instance of state efforts to control Islam at a time of increasing Islamization. One implication of the Indonesian state's changes to Muslim divorce mediation is that the Religious Court practices, including mediation, are less overtly Islamic. Yet since a major purpose of the new mediation regulation is to discourage legal disputes, this happens to coincide with the Islamic value of discouraging divorce. Islamic and Quranic values and the Islamic Law have also infused the mediation process.

Since 2008, mediation in Muslim divorce has been in a transition stage which to some extent accounts for the diversity in practices I observed in Yogyakarta. Mediation has been professionalized by requiring certification. Training has developed the mediators' capacity to assist divorce clients. As yet, however, few judges, who do all of the official mediation, have mediator certificates. In addition, the regulation which requires a judge to shift directly from his or her role as judge to that of mediator is implemented inconsistently. Changes within society have also influenced family life as well as the mediation values in Muslim divorce. Indonesian family life is now influenced less by strict patriarchal culture and takes into account, at least to some degree, the rights of women and children. Shifts of opinion, which can be seen in the recent promulgation of laws on trafficking, domestic violence, and the protection of children, laws which are in accordance with the creation of national commissions for child protection and for combating violence against women, have increased the awareness of values of protection in the family. Those changes have influenced the judge mediators' opinions in the way they conduct mediation.

Even though there is a formal regulation which makes the process of mediation uniform, judges mediate clients differently based on their personal understandings of mediation, family values and gender issues. This situation results in mediation which is less predictable than intended. In addition, the formal indicator of mediation success - the withdrawal of court cases - is not really suited to dealing with divorces. In fact, agreement

between clients on the effects of divorce such as children custody and property division is also a measure of the success of mediation. Further, the mediation facilities are still inadequate which affects the mediation process.

The process of mediation would be more effective if it were divided into different stages. Clients come to court only when the matter reaches an acute stage. It would be better to prioritize more family-based mediation in the family at an earlier stage, which is in accordance with Islamic teaching. BP4, which is closer to the community level, is more appropriate to handle mediation at an early stage when problems arise in the marriage. Mediation in the Religious Court should be regarded as a last resort to check whether it is possible to reconcile the clients.

Reference

- Azra, A. (2003). The Indonesian Marriage Law of 1974: An Institutionalization of the Shari'a for Social Changes. In A. Salim & A. Azra (Eds.), *Shari'a and Politics in Modern Indonesia* Singapore: Institute of Southeast Asian Studies.
- BADILAG. (2010a). Melonjaknya Angka Perceraian Jadi Sorotan Lagi (The skyrocketing divorce rate, is again, in the spotlight) Retrieved June 29, 2011, from http://www.badilag.net/index2.php?option=com_content&task=emailform&id=5167</fo nt>
- BADILAG. (2010b). PA Yogya Tempati Gedung Baru (The Yogyakarta Religious Court settles in the new building). Retrieved June 18, 2012, from <http://www.badilag.net/berita-seputar-peradilan-agama/4514-pa-yogya-tempati-gedung-baru--154.html>
- BP4. (2009). *Anggaran Dasar dan Anggaran Rumah Tangga BP4 (The charter and bylaws of BP4)*. No 26/2-P/BP4/VI/2009. Jakarta.
- Cammack, M. (2003). Indonesia's 1989 Religious Judicature Act: Islamization of Indonesia or Indonesianization of Islam. In A. Salim & A. Azra (Eds.), *Shari'a and Politics in Modern Indonesia*. Singapore: Institute of Southeast Asian Studies.
- Cammack, M., & Feener, R. M. (2012). The Islamic legal system in Indonesia. *Pacific Rim Law & Policy Journal*, 21(1), 13-42.
- Ciciek, Farha. (2008). Seputar Problematika Rumah Tangga: Kekerasan dalam Rumah Tangga. In Eridani, A., & Kusumaningtyas, A. *Keluarga sakinah: Kesetaraan relasi suami istri (The happy family: Husband and wife equal relationship)*. Jakarta: Rahima.
- Eridani, A., & Kusumaningtyas, A. (2008). *Keluarga sakinah: Kesetaraan relasi suami istri (The happy family: Husband and wife equal relationship)* Jakarta: Rahima.
- Funken, K. (2002). Comparative Dispute Management: Court-connected Mediation in Japan and Germany Retrieved March 9, 2012, from <http://www.germanlawjournal.com/article.php?id=130>
- Guest, P. (1991). *Marital dissolution and development in Indonesia*. Working Papers in Demography. Research School of Social Sciences, The Australian National of University. Canberra.
- Heaton, T. B., Cammack, M., & Young, L. (2001). Why is the divorce rate declining in Indonesia? *Journal of Marriage and Family*, 63(2), 480-490.

- Hermansyah. (2012). Hakim Perempuan di Peradilan Agama, Riwayatmu Kini (The female judges in the religious court, the current history). Retrieved April 23, 2012, from <http://www.badilag.net/artikel/10712-hakim-perempuan-di-peradilan-agama-riwayatmu-kini-234.html>
- Hull, T. H. (2011). Statistical indices of marriage patterns in Insular Southeast Asia. In G. Jones, T. H. Hull & m. Mohamad (Eds.), *Changing Marriage Patterns in Southeast Asia: Economic and Socio-cultural Dimensions*. Oxon: Routledge Contemporary Southeast Asia Series.
- Idrus, Nurul Ilmi. (2011). Bugis Maariage: State Laws, Islam and Local Practices. In G. Jones, T. H. Hull & m. Mohamad (Eds.), *Changing Marriage Patterns in Southeast Asia: Economic and Socio-cultural Dimensions*. Oxon: Routledge Contemporary Southeast Asia Series.
- Jones, G. (1992). *Divorce in Islamic Southeast Asia*. Working Papers in Demography. Australian National University. Canberra.
- Jones, G & Gubhaju, B. (2011). Regional Differences in Marriage Patterns in Indonesia in the Twenty-First Century. In G. Jones, T. H. Hull & m. Mohamad (Eds.), *Changing Marriage Patterns in Southeast Asia: Economic and Socio-cultural Dimensions*. Oxon: Routledge Contemporary Southeast Asia Series.
- KUA Banyuglugur. (2011). BP4 dalam sejarah (The history of BP4). Situbondo, East Java.
- Lev, D. S. (1972). *Islamic Courts in Indonesia: A study in the Political bases of Legal Institution*. Berkeley: University of California Press.
- Mahkamah Agung. (2002). *Surat Edaran Mahkamah Agung (SEMA) No 1/2002 tentang Pemberdayaan Pengadilan Tingkat Pertama Menerapkan Lembaga Damai (The Supreme Court Circular Letter Number 1/2001 on The empowerment of the first court to implement the peace institution)*. Jakarta: Mahkamah Agung.
- Mahkamah Agung. (2003). *Peraturan Mahkamah Agung Republik Indonesia Nomor 2 Tahun 2003 Tentang Prosedur Mediasi di Pengadilan (The Supreme Court's regulation Number 2/2003 on mediation procedure in the court)*. Jakarta.
- Mahkamah Agung. (2008). *Peraturan Mahkamah Agung Nomor 1 Tahun 2008 tentang Prosedur Mediasi di Pengadilan (The Supreme's Court regulation Number 1 of 2008 on mediation procedure in the court)*. Jakarta.
- Mahkamah Agung. (2011). *Pelatihan Sertifikasi Mediator Hakim Tingkat Pertama Peradilan Umum dan Agama Seluruh Indonesia (Mediator certification training for the first court from the general court and religious court judges)*. Pusdiklat Teknis Peradilan Balitbang Diklat dan Kumdil. Jakarta.
- Nakamura, H. (1983). *Divorce in Java*. Yogyakarta: Gadjah Mada University.
- Nurlaelawati, E. (2010). *Modernization, tradition, and identity: The Kompilasi Hukum Islam and legal practice in the Indonesian Religious Court*. Amsterdam: Amsterdam University Press.
- Nurlaelawati, E., & Rahim, A. (2012). The training, appointment, and supervision of Islamic judges in Indonesia. *Pacific Rim Law & Policy Journal, Vol (21): 1*, 43-64.
- Nurmila, N. (2009). *Women, Islam and everyday life: Renegotiating polygamy in Indonesia*. London: Routledge
- O'Shaughnessy, Kate. (2009). *Gender, State and Social Power in Contemporary Indonesia: Divorce and Marriage Law*. London: Routledge.

- PA Yogyakarta. (2006-2010). *Faktor-Faktor Penyebab Perceraian pada Pengadilan Agama Kota Yogyakarta (Factors contributing to divorce in the Yogyakarta religious court)* Yogyakarta: Pengadilan Agama Kota Yogyakarta.
- PA Yogyakarta. (2011a). *Data Mediasi Perceraian Pengadilan Agama Kota Yogyakarta Januari-September 2011 (The divorce mediation data in the Yogyakarta religious court from January-September 2011)*. Yogyakarta: PA Yogyakarta.
- PA Yogyakarta. (2011b). *Data talak/gugat cerai 2000-2010 (Data of divorce initiated by husband and wife from 2000 to 2010)*. Yogyakarta: Pengadilan Agama Kota Yogyakarta.
- PA Yogyakarta. (2011c). *Surat Penetapan Mediator, Surat Pernyataan Hasil Mediasi, Surat Laporan Proses Mediasi (Mediator Determination Letter, Results Statement of Mediation, the Report Letter of Mediation Process)*. Yogyakarta: PA Yogyakarta.
- Pemda Yogyakarta. (2002). *Kondisi Geografis Kota Yogyakarta (The geography of Yogyakarta city)*. Retrieved May 18, 2012, from <http://www.jogjakota.go.id/index/extra.detail/22>
- Presiden Republik Indonesia. (1975). *Peraturan Pemerintah Nomor 9 Tahun 1975: Pelaksanaan Undang-undang Nomor 1 Tahun 1974 (The Government regulation Number 9 of 1975: The implementation of Act number 1 of 1974)*.
- Presiden Republik Indonesia. (1991). *Instruksi Presiden Republik Indonesia Nomor 1 Tahun 1991 tentang Kompilasi Hukum Islam (Presidential Instruction of Indonesia Number 1 of 1991 on the compilation of Islamic Law)*.
- Quran. (No date). Retrieved August 5, 2011, from <http://quran.com/30>
- Rahima-Depag RI. (2009). *Pendidikan Keluarga Sakinah Perspektif Kesetaraan (Education for the happy family: Equality perspective)*. Jakarta: Rahima-Puslitbang Kehidupan Keagamaan Depag RI.
- Republik Indonesia. (1974). *Undang-undang Nomor 1 tahun 1974 tentang Perkawinan (The regulation Number 1 of 1974 about the marriage law)*. Jakarta.
- Republik Indonesia. (1989). *Undang-undang Nomor 7 Tahun 1989 tentang Peradilan Agama (Act number 7 of 1989 on the religious judicature)*. Jakarta.
- Republik Indonesia. (1999). *Undang-undang No 35 Tahun 1999 Tentang Ketentuan-Ketentuan Pokok Kekuasaan Kehakiman (Act number 35 of 1999 on the provisions of judicature power)*. Jakarta.
- Republik Indonesia. (2014). *Undang-undang No 35 Tahun 2014 tentang Perubahan UU Perlindungan Anak (Act number 35 of 2014 on the child protection)*. Jakarta.
- Republik Indonesia. (2004a). *Undang-Undang Nomor 4 Tahun 2004 Tentang Kekuasaan Kehakiman (Act number 4 of 2004 on the judicature power)*. Jakarta.
- Republik Indonesia. (2004b). *Undang-undang Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga (Act number 23 of 2004 on eradicating domestic violence)*. Jakarta.
- Republik Indonesia. (2006). *Undang-undang Nomor 3 Tahun 2006 Tentang Perubahan atas Undang-undang No. 7 Tahun 1989 Tentang Peradilan Agama (Act number 3 of 2006 about the changes to act number 7 of the religious judicature)*. Jakarta.
- Republik Indonesia. (2007). *Undang-Undang No. 21 tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang (Act number 21 of 2007 on eradicating human trafficking)*. Jakarta.

- Republik Indonesia. (2009). *Undang-Undang Nomor 50 Tahun 2009 Tentang Perubahan Kedua Atas Undang-Undang Nomor 7 Tahun 1989 Tentang Peradilan Agama (Act Number 50 of 2009 on the second changes to act number 7 of 1989 on the religious judicature)*. Jakarta.
- Rifka Annisa. (2012). *Sejarah Rifka Annisa (The history of Rifka Annisa)*. Retrieved March 9, 2012, from <http://rifka-annisa.or.id/sejarah/>
- Salamah, Y. Y. (2009). *Mediasi dalam proses beracara di pengadilan: Studi mengenai mediasi di Pengadilan Negeri proyek percontohan Mahkamah Agung RI (Mediation in the court's hearing process: The study of mediation in the general court as the Supreme's Court pilot project)*. PhD, University of Indonesia, Jakarta.
- Shihab, Q. (1992). *Mistik, Seks, dan Ibadah (Mysticism, sex, and worship)*. Jakarta: Penerbit Republika.
- Shihab, Q. (2004, 26 September). *Perceraian: Transkrip acara TV (Divorce: Transcript of a TV show)*. Retrieved April 11, 2012, from <http://www.te.ugm.ac.id/forum/viewtopic.php?f=7&t=1217>
- Singarimbun, M., & Manning, C. (1974). Marriage and divorce in Mojolama. *Indonesia*, 17, 67-82.
- Situmorang, Augustina. (2011). Delayed Marriage among Lower Socio Economic Groups in an Indonesian Industrial Society. In G. Jones, T. H. Hull & m. Mohamad (Eds.), *Changing Marriage Patterns in Southeast Asia: Economic and Sosio-cultural Dimensions*. Oxon: Routledge Contemporary Southeast Asia Series.
- Sumner, C., & Lindsey, T. (2010). *Courting Reform: Indonesia's Islamic Courts and Justice for the Poor*. New South Wales: Lowy Institute.
- Suruddin. (2010). Peranan BP4 dalam menurunkan angka perceraian (The role of BP4 in decreasing the divorce rate). Retrieved July 5, 2011, from <http://sururudin.wordpress.com/2010/09/19/peranan-bp4-dalam-menurunkan-angka-perceraian/>
- Umar, N. (2001). *Argumen kesetaraan jender perspektif Al-Quran (The argument for gender equality in the Quranic perspective)* Jakarta: Paramadina.
- Widiana, W. (2011, Dec 11,). Religious Court Reform in Indonesia. Retrieved May 2, 2012, from <http://www.badilag.net/english/e-publication/424-religious-court-reform-in-indonesia-by-drshwahu-widiana-ma.html>



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List of Respondents

Those interviewed for Research on: “Mediation in Muslim Divorce: A Case Study in the Religious Court of Yogyakarta Indonesia”

No.	NAME	OCCUPATION	DATE OF INTERVIEW
1.	Drs. HA. Damanhuri HR, SH, M. Hum	Chair of the Religious Court of Yogyakarta	October 20, 2011
2.	Dra. Mustaqarah, SH, MM	Vice-chair of the Religious Court of Yogyakarta	November 4, 2011
3.	Drs. Saifurrohman, SH. M. Hum	A judge mediator of the Religious Court of Yogyakarta	December 2, 2011
4.	Drs. Wan Ahmad	A judge mediator of the Religious Court of Yogyakarta	November 3, 2011
5.	Drs. Syamsuddin, SH	A judge mediator of the Religious Court of Yogyakarta	November 28, 2011
6.	Drs. H. Husaini Idris, SH, MSI	A judge mediator of the Religious Court of Yogyakarta	November 2, 2011
7.	Drs. H. Ahmad Adib, SH, MH	A judge mediator of the Religious Court of Yogyakarta	November 9, 2011
8.	Drs. H. Ahmad Zuhdi, SH, M, Hum	A judge mediator of the Religious Court of Yogyakarta	October 18, 2011
9.	Drs. Wildan Tojibi, M, Si	A judge mediator of the Religious Court of Yogyakarta	October 11, 2011
10.	Dra. Siti Fauziah, SH	A judge mediator of the Religious Court of Yogyakarta	November 7, 2011
11.	Dra. Hj Maria Ulfah, MM	A judge mediator of the Religious Court of Yogyakarta	November 15, 2011
12.	Naya Amin Zaini, SH, MH	An external mediator	October 14, 2011
13.	Drs. Mochammad Sodik, S.Sos, M.Si	The program coordinator for mediation training, Islamic State University, Kalijaga Yogyakarta	November 11, 2011
14.	Drs. Anwar Sanusi	The chair of BP4 Kota Yogyakarta	November 18, 2011
15.	Drg. Suryono, SH, PhD	The vice-chair of the school of mediation, Gadjah Mada University	November 17, 2011
16.	Prof. Dr. Musdah Mulia	Expert on Islamic law. The initiator of Counter legal draft for Compilation of Islamic Law.	October 24, 2011