

**Why is it so Hard to get a Divorce?
Examining the Relationship Between California's
No-Fault-Divorce Laws
and Low-Income Women**

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Spring 2013
Legal Studies Honors Thesis**

Acknowledgements

Thank you to my parents who have instilled a lifelong love of learning in me from the beginning. Thank you to Professor Perry for giving me some valuable insights about sources to research. I am forever indebted to the cooperation and assistance from the staff and volunteers at the Van Nuys Self-Help Legal Access Center and the San Fernando Self-Help Legal Access Center. Special regards to Robbie Stovitz, Ana Maria Garcia, Lourdes Nunoz, Sara Shiekh, and Ruth Zacarias. This thesis would not be what it is today if you all hadn't been so helpful. A million thanks cannot express my gratitude to you all, especially Ruth. I also must express my appreciation for Debra Schoenberg who, despite her busy schedule, took the time to meet and talk with me. And of course, I could never have come close to completing this thesis without the guidance of my advisor Professor Musheno. Working with you helped me fall in love with the world of academia. Here's hoping this thesis is my first step into a longer journey of academic research.

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Abstract

In 1969, the California Family Law Act was passed, which made California the first no-fault divorce state. Previously, divorce could be granted only if one party was found guilty of adultery, excessive malice, desertion, neglect, constant inebriation, or a felony conviction. Under the new law, marriage could be dissolved simply based on irreconcilable differences.

Fast forward several decades and one can find many low-income women receiving assistance from volunteers and legal aid attorneys at Self Help Legal Access Centers (SHLACs) throughout California, seeking divorces in this no-fault state. These women, unable to afford attorneys, struggle to move their divorce along. The process of getting a divorce is long (it takes a minimum of six months from the date of separation for divorce to be finalized in California) and complex. It is not rare for a litigant to visit a center multiple times over the course of months or even years before she can file her completed divorce paperwork. Other low-income women simply give up on obtaining a divorce at all and remain in unsatisfactory marriages.

My thesis examines how low-income women experience the divorce process under the California Family Law Act and explores what divorce means to them as a result of their engagement in this process. I will explore the historical context surrounding the passage of the California Family Law Act and explore observed trends among low-income women going through a divorce in order to see if no-fault divorce law plays a role. Next, I report my findings from surveying and interviewing low-income women who are at different stages in their divorce, along with divorce attorneys who work with both low-income litigants and more affluent clients. The data acquired from these surveys and interviews will allow a glimpse into how these women perceive the law and how they feel the law is impacting them.

Introduction

Lawrence Friedman called California a “pioneer state” for becoming the first no-fault divorce state. When one examines the previous divorce system, with its adversarial nature, “farcical proceedings” and “courtroom charade[s]” (Reppy 1307) the passage of the California Family Law Act was revolutionary as it mitigated the previous antagonistic quality of divorce by removing guilt or blame from divorce proceedings. Other states followed California’s example; less than fifteen years after the California Family Law Act was passed in California, no-fault divorce was manifested in one way or another in all states, except for South Dakota and New York (Friedman 664).

A plethora of studies examining the effects of no-fault divorce, particularly its effects on women, have been published since 1969. Older scholarship pointed to certain negative results for women from no-fault divorce. For instance, one study from cited women’s living standards falling in California by 73% (McLindon 352) and feminist academic Lenore Weitzman has written extensively, arguing that no-fault divorce has resulted in a lower fraction of community property provided to women (178).

While these studies provide valuable insight into examining the broader effects of no-fault divorce law, more recent research examines what no-fault divorce law means for the present low-income woman. There are several reasons why it is important to examine the relationship between no-fault divorce laws and low-income women. First, several studies illustrate that there may be a close relationship between poverty and divorce. A study conducted in 2010 shows that couples that receive government assistance such as Medicaid and food stamps are more likely to divorce (Schramm and Harris 437) and similarly, a 2012 study indicates that low-income couples have higher rates of divorce (Trail and Karney 413). Second, it is worth examining the relationship between low-income women and California’s divorce laws in light of

the present economic climate. Studies indicate that there is a negative relationship between divorce rates and economic growth because many people simply cannot afford to get a divorce (Vendatam). And while divorce rates during the recession have decreased, the quality of marital life, already under strain for low-income individuals, deteriorates during a time of economic decline (Vendatam).

This all hints at the complexities surrounding divorce laws. Yet California's move to becoming a no-fault divorce state was a *reform*, presumably for the benefit of women. However, the aforementioned studies suggest that effects of no-fault divorce laws for low-income women are not the same as their higher-income counterparts. There seems to be a trend that divorce has a more harmful effect for low-income women. Is this disparity simply because of income? Or does the no-fault divorce law itself play a role? This segues into the questions that my thesis answers.

- 1) What were the reasons behind reforming California's divorce laws in the 1960s?
- 2) Do the intentions of the legislative members spearheading the reform movement resonate with contemporary low-income women?
- 3) How do California's current divorce laws affect low-income women seeking divorce and how does this compare with higher-income women who are also seeking a divorce?
- 4) How do these women perceive the no-fault divorce law?
- 5) What if any distinctions do litigants make between substantive and procedural elements of divorce law?

My thesis explores both the substantive and procedural elements redound on low-income women from the current divorce laws. With regards to question five, I identify the procedural elements of divorce law as the logistical and technical characteristics and mandatory processes

that of divorce law such as the various forms that require completion such as financial disclosures and the mandatory hearings and mediation meetings that are required for some couples. Substantively, I refer more to the philosophical and moral foundations of divorce law—for instance why divorce law is no-fault. The substantive element will become clearer from the history of the motives of making California into a no-fault divorce state. I intended to keep these two elements in mind as I set out to explore my third and fourth questions.

The first question was proposed in order to allow a background and exposition for exploring the more contemporary phenomenon of divorce law and low-income litigants, and the second question prompted me to compare the present effects of divorce law with the history of how and why the law is manifested in its current state.

Origins of the California Divorce Law Reform:

When evaluating the law as it presently stands, historical context for the how the law in question originated is a valuable asset. Thus, in order to explore the effects of current California divorce laws on low-income women, it is necessary to evaluate the origins of the legal divorce reforms that took place in the 1960s. Evaluating the original intentions behind the establishment of present divorce laws can demonstrate what were the primary concerns behind certain California politicians pushing to reform divorce law.

When Republican governor Ronald Reagan signed the Family Law Act of 1969, he not only made California the first no-fault divorce state in the United States, he also set a precedent for other states' transition into becoming no-fault divorce states as well (Hershkowitz and Lieber 130). This transformation was not an overnight process, nor did it arise independently from the cultural and political environment in the postwar United States. By providing a historical context for evaluating the political and cultural forces that drove California's transition to a no-fault divorce state, Howard Krom's "California Divorce Law Reform: A Historical Analysis" and

Putting Asunder by Roderick Phillips contextualize the social and political environment that fostered California's divorce reform.

Within Krom's narrative about the various committee and legislative meetings held and the various reports composed that lead up to the passage of the Family Law Act of 1969, he explains that California's push for reform was reacting to the shortcomings of the original instituted laws. He argues that the earlier fault-divorce law, by forcing blame on one or both parties, was both antiquated by the 1960s, and also a catalyst for "cruel and unworkable" results, (Krom 156). Krom's assertion makes an implicit assumption that the accusatory nature of the original divorce laws was responsible for the negative effects of divorce being observed at the time the discussion of divorce reform was taking place. Some of these negative effects include stigma and animosity (157) along with "antisocial behavior, welfare costs and moral decay" (160).

Krom suggests that the movement to a no-fault divorce law was responding to the assumption that the central problem perceived within California's original divorce laws was that it was condemnatory and impeded cooperation by fostering an environment of animosity. The prescribed remedy, which Krom applauds, was to remove the fault aspect of divorce and instead grant a divorce, not based on which party was wrong, but rather "if the legitimate objects of matrimony had been destroyed and there was no reasonable likelihood that the marriage could be saved," (167).

Phillips highlights the social climate surrounding California's divorce reform in the 1960s. As he explains, "More liberal attitudes toward authority and institutions were reflected in family law reform as well, and in no part of it was this more true than in terms of divorce law," (Phillips 561). Like Krom, Phillips asserts that the old divorce laws were out of touch with the

reality of the 1960s and that change was necessary (563). But more than just keeping up with the increasingly liberal environment that characterized the 1960s, a move to reform divorce laws occurred under the initiative of California governor Edmond Brown because Brown was concerned about the increasing divorce rate: “divorce erodes the very foundation of our society,” (567). Thus, it appears that another impetus for changing California divorce laws was the goal of decreasing the divorce rates.

In fact, the motivation of reducing divorce is clearly supported within an introduction in the summary of a report presented by the Governor Brown’s established Commission on the Family: “...the law must be designed to promote family stability, by preventing divorce where it is not warranted, and reducing its harmful effects where it is necessary,” (Dinkelspiel and Gough 72). With this criteria established early in the summary, it is not surprising the rest of the summary demonstrates an emphasis on promoting cooperation and conciliation between parties. For instance, the summary calls to establish a separate Family Court in order “to minimize the conflict and rancor between parties...and to...focus it’s real inquiry upon the real problems of the marriage” (Dinkelspiel and Gough 74). Moreover, the summary also establishes guidelines and steps regarding counseling and mediation after a “petition of inquiry” is filed (Dinkelspiel and Gough 7) in order to determine whether the marriage can be salvaged.

Interpreting The History:

There are several points to take notice of within Philipps and Krom’s historical expositions regarding California’s path towards the Family Law Act of 1969’s signing. First is the intent behind reform. Both Krom and Phillipps illustrate that the law reflecting the social norms of the 1960s was a consideration. Both also illustrate that the new divorce laws were created in order to remedy problems occurring with the old 19th century law it replaced.

Within these observations, one can see that there is attention given to social relationships. Mainly, we see within Krom's article that by removing the "fault" in divorce, legislative members hoped to decrease the ill feeling between parties engaged in a divorce procedure. The animosity between these parties was a primary consideration in evaluating how to update the law. Likewise, Governor Brown argued that part of the detriments of divorce was its corroding effects on society.

Moreover, what becomes apparent from examining the guidelines and prescriptions for a Family Court as provided by the Commission's Summary as described by Dinkelspiel and Gough, is that a shift towards no-fault divorce law was not intended to make it easier for parties to obtain divorce. What the summary presents is a new set of guidelines and steps it feels parties should abide by in order to ensure a divorce is not granted hastily. In other words, a new set of procedures, and a new court system (the Family Court) is proposed all to guarantee that a dissolution of marriage is not granted to a couple whose marriage can be saved.

With this in mind, one can better evaluate the reason for the structure of present divorce laws within California. Moreover, one can understand better any shortcomings and disconnect that the law has to those actually engaged with it on a daily basis—that is low-income women seeking a divorce. Divorce law reform was created, not for the purposes of women, but for the purposes of fostering more positive social relationships through decreasing the animosity between parties going through a divorce, and through decreasing the number of divorces.

However, Krom makes the assumption that making a "no-fault" divorce law helps mitigate the hostile elements regarding divorce. In the eyes of the law this might be the case, but if there are two parties possessing a large amount of ill-will towards one another, it does not necessary follow that requesting a divorce for reasons of "irreconcilable differences" will

necessarily mitigate such feelings of ill-will. This becomes clearer when one looks at the experiences of current low-income women.

Methods of Inquiry for Studying Divorce Among Low-Income Women

From 1969 to the present, a large amount of rich literature has been published exploring the implications of No-Fault Divorce. For my thesis, however, I wanted a more current examination, and I also wanted to see how low-income women themselves perceived the law. Before engaging with low-income women, I had two hypotheses of how the history of divorce reform would map onto the experiences of these women. First, I hypothesized that these women would be discontent by being allowed to cite only “irreconcilable differences” as the reason for divorce. Second, I also hypothesized that these women would not feel that the divorce process improved their relationships with the other parties.

Survey and Interview Methodology

In order to analyze the perspectives about California’s divorce laws and the divorce law process from low-income female litigants, I utilized two approaches. First, I employed survey research and administered a divorce questionnaire with a combination of open and forced-choice questions. Several questions asked women to evaluate the effects of mediation and the divorce process on their relationships, and about their opinion regarding whether the court or judge should know why they were getting a divorce. To supplement the survey results, which for the purposes of this thesis were the primary source of data, I also used intensive interviewing in order to obtain narratives from low-income women. With both these approaches, I used purposive sampling and specifically chose to interview divorce litigants and administer the questionnaires at two Self Help-Legal Access Centers, one in the city of Van Nuys in the east San Fernando Valley by Los Angeles, and the other in its bordering city of San Fernando.

The majority of surveys responses were drawn from San Fernando. According to the US Census Bureau, the city of San Fernando had a population of 23,818, 49.8% of which are female and 92% of who are Hispanic. 52% of San Fernando residents have completed high school and 8% have earned a college degree. These numbers diverge from the California totals in which 80% of the total California population has completed high school and 30% who have earned a Bachelor's degree or higher. The average salary of a resident of San Fernando is \$16,211, a significantly lower number than the average Californian income of \$29,634. This demographic situation illustrates that compared to the average Californian, San Fernando residents have less education and lower incomes.

A report emailed from the main staff attorney at the San Fernando Self-Help Legal Access Center states that in 2012, over 12,800 litigants sought assistance from the center, with 51% of litigants seeking assistance for divorce related matters. Over 61% litigants were reported as female, and 51% reported being below 100% of the federal poverty guidelines. Thus, this center provided an excellent opportunity to find a population of low-income female divorce litigants.

At these centers, low-income and unrepresented litigants can seek assistance from volunteers and staff attorneys in completing the necessary paperwork for various family and housing law cases. Before meeting with the volunteers and attorneys, litigants complete an intake form, which asks for various personal background information including address, date of birth, monthly income, ethnicity, primary language, education level, and reason for visiting the center. After completing the intake form, litigants are screened by a staff-member, usually someone with paralegal training. After determining if the litigant qualifies for further assistance from the center, the litigant is seated with a volunteer. Volunteers will assist litigants with filling out and

reviewing the necessary forms before bringing the litigant's case to the on-site staff attorney for a final review. Due to the high volume of cases that the staff attorneys review, litigants often experience a waiting period from the time the volunteer has finished assisting them with his or her case to the time their attorney receives an opportunity to conduct a final review. It was during this wait period that surveys were distributed to litigants

The surveys were administered from the end of December 2012 through early March 2013. I personally distributed the surveys during the weeks of my winter break, from the end of December to the second week of January. After that period, other volunteers and the on-site attorneys distributed the surveys to litigants.

The survey questions were designed to examine how low-income female litigants perceived the effects of mediation and the procedural process of filing for a divorce on their relationships with the other party. Additionally, the survey asked litigants the reason they were getting a divorce and also to assess how important they felt about whether the court or judge knew the reason why they were filing a divorce. There were open-ended questions at the conclusion of the survey where litigants could comment on any changes they would make to the divorce and marriage processes.

After collecting and inputting the survey results, I returned to the San Fernando SHLAC during the last week of March to interview litigants and the staff attorneys. The questions asked were intended to have litigants provide narrative descriptions of their experiences filing for a divorce and thorough explanations of how and why they perceived divorce law in a certain manner. Interviews were conducted as litigants waited for their cases to be reviewed by the attorneys and were informal in nature. A total of six litigant interviews were conducted. As each litigant had different wait times based on the order of their case in the line of cases to be

reviewed by the staff attorneys, the interview times varied. Two interviews lasted around five minutes, one interview lasted close to ten minutes, while the remaining two lasted just over fifteen minutes. The litigants were each at various stages in their divorces process ranging from beginning their petition to working on a trial setting; one litigant had completed processing all the paperwork for her divorce but was currently working on dismissing her case.

Survey and Interview Results

After compiling the survey and interview responses, several key about how low-income litigants perceived divorce emerged. The first trend, emerging primarily from the survey data, was that litigants felt mediation helped improve their relations with the other party. The interviews confirmed the survey data, but litigants provide richer elaboration more on this particular trend. Contrasting that is that the divorce process as a whole does not seem to have any net effect—positive or negative—on the litigants’ relationships with the other party. This was demonstrated from the survey results, and possible explanations for this situation emerged from the interviews. Next, litigants did not place a priority on property, though this was only confirmed from the interview responses. The survey responses also clearly indicate that litigant’s desire that their reason for divorce be made transparent to the court or judge, though this was only marginally explained by the interviews. Finally, from both the surveys and the interview responses, litigants expressed strong opinions about making changes to the legal process of marriage.

A. Mediation—More Positives than Negatives

To examine how close the divorce reformer’s intentions closely map onto the circumstances of low-income female divorce litigants, the survey asked respondents the extent of improvement, if any, resulted from going through mediation. Of these respondents who reported having going

through mediation, 76% reported a varying degrees of improvement in their relationship with the other party with 24% stated that there had been “significant improvement”. 24% respondents stated there had been no improvement in the relationship.

The interview responses also indicated that mediation had a beneficial impact on litigants’ relationships with the other party. Out of the two litigants who had gone through mediation, one stated mediation did not change her relationship with the other party, and the other stated that mediation was an integral part of repairing her relationship. In fact, the extent of repair achieved was great enough that the litigant was at the center to file a dismissal of her divorce case. Thus it seems in the case of mediation, the Commission’s intentions of decreasing the adversity of divorce are realized in the situation of low-income litigants.

This apparent success should be qualified, however, by reporting that 62% number of respondents who stated that mediation had actually contributed to varying degrees of damage with the other party. It would be presumptuous, nonetheless, to say these results neutralize conclusion that mediation has some beneficial impact on these litigants’ relationship. First, the percentage for litigants indicated a positive relationship affect is higher than those who indicated a negative affect. Second, a considerable fraction of litigants who stated mediation had some damaging affect on their relationship also indicated that mediation had some degree of improvement on their relationship. Specifically, 47% of these litigants reported that mediation had a higher degree of improvement than damage with the relationship from the other party.

Only two litigants interviewed stated that they went through mediation. Neither provided descriptions of their experience with mediation, they merely stated that it helped. Nonetheless, the numbers from the surveys suggest that with some certainty low-income female litigants perceive a certain amount of efficacy from going through mediation.

B. Absent Net Relationship Effects from the Divorce Process

Whereas the results seem to suggest that mediation has a positive impact on litigants' relationships, there is some indication that the same does not hold true for the overall divorce process. While 50% percent of litigants responded that the divorce process had varying degrees of improvement on their relationship with the other party, 53% responded that that the divorce process had varying degrees of damage on their relationship. Moreover, while all of the survey respondents who answered the questions regarding the relationship affects of divorce stated that divorce had benefitted and damaged their relationships, a slightly higher percentage responded that the divorce process had a higher degree of damage than improvement on their relationship. Specifically, 33% responded that the divorce had a higher degree of damage than improvement compared with 29% who stated reverse. 37% responded that the divorce process had the same degree of improvement and damage on the relationship.

Thus, what the survey results only marginally indicate that the divorce process may do more harm than good for the litigants' relationships with the other party. There seems to be stronger evidence that there is a no effect—positive or negative—on the relationship from the divorce process. This is certainly reflected within the interviews.

Nearly all respondents stated that the divorce process did not have an overall effect on their relationship with the other party. The interview responses suggest there may be two reasons for the divorce process having a negligible impact on their relationship with the other party.

The first reason is that almost all the litigants expressed confidence that they were absolutely sure the divorce is what they wanted. One litigant, when asked if she at any point was questioning the process simply replied, "No. When I came [to the center], I knew [divorce] is what I wanted." Nearly all interview litigants echoed this statement and Ruth Zacarias, one of the

staff attorneys at the San Fernando SHLAC states that this certainty is present with the majority of the female litigants who come to the clinic: “Generally by the time people come in here they are sure...there are very few who reconcile.”

This certainty may be related to the length of time litigants are separated from their spouse. A good fraction of low-income female litigants who come into the clinic for divorce assistance have been separated from their spouse for a considerable period of time. Every litigant interviewed had been separated for over six months, a trend that holds true for a majority of litigants that come into the center for assistance according to Ruth Zacarias, one of the staff attorneys at the San Fernando clinic. She states, “They’ve already been separated for awhile. It’s a rare situation when someone’s been sandbagged. The majority have been separated if not months then years.” Based on the interview responses, during the period of separation, minimal if any contact had been maintained with the other party.

During this long separation period, litigants came to their final decision that they wanted to file a divorce, and that they knew their relationship was irreparable. As one litigant explained, “I think I’ve waited long enough so that I know I’m sure.” The long wait that came from her separation with her spouse allowed her to realize she and the other party had reached the point where their relationship was beyond repair. This is the situation for many other low-income litigants who were interviewed as well.

Thus, by the time low-income women have made their decision to divorce, their relationship has reached an irrecoverable low. The divorce process may not be able to change the relationship, because filing for divorce is the couple believing that nothing can change for the better; they have reached such a turbulent point in the relationship, that the process can’t damage the relationship more than beyond the state it is in by the time they arrive at the clinic.

One can see this phenomenon in the response from one litigant's story of how she came to the decision to divorce her husband. After getting into a car accident, she permanently injured her back, which forced her to resign from a job she acquired after her disability payments ran out. She recounted the toll her disability, and the mental disability of her son took on her relationship with her husband:

“He felt that we were a burden to him....So... it was hard. When he finally brought it up, ‘I’m tired of taking care of ‘you’, I walked out. It hurt me like...I already knew we were heading there, but just the fact that someone tells me ‘I don’t want to take care of you anymore’, he hit me really really hard. And I just walked away out the door...I just felt this is it. I don’t need to deal with this. It’s like you can’t go on working together if one is like contradicting everything you’re doing or because he doesn’t want to do it...and we’re like...we can’t we can’t do this. It just got to that point. Since that day he said those words that no one’s ever told me we’ve never talked.”

A second reason that may suggest why the divorce process has a negligible impact on low-income women's relationships with the other party is that the process can appear incredibly overwhelming to the point where it becomes more difficult to notice what, if any, changes are occurring in their relationships with their spouses. For a considerable fraction of litigants, filing for divorce was reported to be time-consuming and complicated. 31% of the respondents characterized the divorce process as complicated, with many other respondents using similar terms such as “time-consuming”, “too many forms” to characterize divorce. The interview subjects echoed the sentiments of the surveys and were more vocal about the complex nature of the procedural aspect of obtaining divorce than they were about how the divorce process was affecting their relationship with the other party.

One litigant who had been traveling to the center in San Fernando from Hollywood gave a short reply when asked about how the divorce process affected her relationship. She merely stated that it had “no effect”. However, when asked about separate questions about the divorce process that were not connected to her relationship with her spouse, including how the divorce process had been for her and how she would characterize it, she elaborated on how and why the divorce was burdensome for her:

In between work and everything else it takes a lot of time. You start filling stuff out and then you stop then you're printing out tax records and you're looking up this and you're looking up that and it takes forever. Then you come back here and she says oh you didn't fill this out and she hands you another sheet of paper...[The divorce process] is complicated...it just involves a lot of paperwork to be filled out...I just think it's a waste of time and a waste of paperwork.

This litigant's response highlights other complicating factors, besides the paperwork, low-income women face when filing for divorce. Such factors are not necessarily related to the paperwork or the divorce law itself, but factors for their own particular situation they need to consider in order for them to acquire a divorce—such as actually finding the time to complete the divorce.

Next to the paperwork, another interview subjects cited time as the most major obstacle in her interaction with the divorce process. She states, “I work, and it takes time away from work so there's less money...and stuff like that...that's pretty much the only thing that stresses me out.” The survey results also point to how burdensome the issue of time can be for litigants. The average amount of time respondents spend working on a divorce per week came out to 5.36 hours; when one considers that the average amount of time working per week came out to 33.45

hours, and an average of 20.36 hours per week on household activities, there is a considerable personal strain put on the litigant from the divorce.

Thus, while it might be difficult to state a positive or damaging affect from the divorce process on the relationship, there is some reason to consider that there could be a damaging effect on the litigant's themselves coming from, not just having been in a deteriorating personal relationship, but also being forced to face the complicated and time-consuming procedural nature of the divorce process.

C. Limited Priority on Property

One of the more surprising results from interviewing subjects were indications that low-income litigants did not seem to express a high concern or priority over claiming assets from their divorce. One litigant's story of how property was handled during her divorce demonstrates this:

"...he had bought furniture. We gave it away. No big thing. Furniture is replaceable. I didn't buy it so to me that was his. We did buy a burial plot together...I put the deposit down, but he's been paying for it all this time. So...that doesn't bother me because he's been paying for it so I'm like keep it. I don't care. My first marriage was the same way...Everything is replaceable."

This litigant was not alone in this limited concern over rightful ownership of property. Two litigants responded that also calmly stated the property was divided evenly in half, and another litigant simply stated, "Stuff was never really an issue."

There are several reasons that can explain why property is at best a limited priority for low-income litigants. The first is that, being low income, there is very little property to be contentious over. Additionally, the longer periods of separation contribute to the little amount of community property that both parties are forced to divide. Moreover, all of the female litigants interviewed

had children and cited that they were the number one priority consideration when going through the divorce. Ruth Zacarias states that this tends to be the trend at the center, where issues of child custody tend to be the more contentious issues for litigants.

This observation should be qualified, however, by indicating that this observation only stemmed from six interviews; the surveys did not question litigants about how much they prioritized the division of property, so they were unable to give another perspective as to how they viewed issue of community property and being forced to community assets and debts in half. Moreover, Ms. Zacarias indicates that for litigants who have no children, property can become more controversial of an issue, though only 18 percent of survey respondents reported having no children.

D. Financial Burdens from Divorce

While the interviews indicate that property is a limited priority for low-income litigants, expectedly, the female litigants do feel a financial strain from divorce. Moreover, part of this financial strain seems to be connected to the complexity and time-consuming nature of divorce. Ruth Zacarias reports that many litigants feel a financial burden from the divorce since they are forced to take time off work in order to come to the center to proceed with their paperwork. For example, one litigant explained:

You have take a day off of work, I have to drive here which wastes my entire day. You have to pay the parking meters then you have to make copies of stuff...and just and send stuff in here...it's just expensive.

While the litigants who come to the self-help centers do not have to face the financial burden that comes from hiring an attorney, from the survey results, the average amount that respondents reported as spending on a divorce was just shy of \$499.50. When one factors that 58% of the

survey respondents reported their monthly income being under \$2000, the extent of the financial burden divorce poses on low-income litigants is crystallized.

Another origin of the financial burden comes from the fact that there isn't another person helping financially support them. Ms. Zacarias explains that some women feel the financial abandoned because they are left to support the children by themselves. One litigant provides a bleak narrative of how she was forced to deal with financially supporting herself and her three daughters:

Basically I lost everything. He stopped working he stopped paying all the bills he stopped doing everything so yeah it was a definite financial burden. I took all my jewelry that my parents gave me through the years and I turned that in so I could live for six months till I could figure out what I was going to do. I was thankful for that.

This litigant's story also illustrates that a financial burden manifests itself in divorce, not just in the process but the actual underlying cause for the break up in the relationship between both parties. 17% of litigants reported that one of the reasons for filing divorce came from financial disagreements and struggles. Additionally, Ruth Zacarias states that the economy affects the number of low-income litigants that decide to file a divorce. When asked about common reasons she's seen litigants have for filing a divorce, she replies, "The economy is a contributing factor. Years ago when there was another crash, we saw that coming out of Lancaster. When Boeing left the area...economic hardship puts a huge stress on marriage."

E. Favoring Transparency for Origins of Divorce

Examining both the survey and interviews reveal that there is a considerable favoring among low-income female litigant for more transparency regarding the reasons for filing a divorce. While 41% of survey respondents reported "incompatibility" as the reason for getting divorce,

the remaining 54% identified more specific causes for getting a divorce; 17% of respondents cited violence/emotional abuse while another 17% marked financial disagreements. 14% claimed infidelity and 6% identified disagreements raising children. Finally 5% identified “other” as a reason for their divorce. While these results suggest that there are a higher number of litigants who are comfortable identifying specific reasons for filing their divorces rather than litigants who may wish to keep their reasons more general, the following question in the survey more definitively points to a trend for transparency from litigants. When litigants were asked to assess how important they felt for the court and judge knowing the reason for divorce, 53% claimed they felt this was “very important”.

The litigant interviews shed some light as to possible explanations for these results, though only two of the seven litigants interviewed expressed strong opinion that court and judge know the exact reason they were filing for a divorce. Four cited their indifference. All seven litigants were petitioners in their divorce cases. Three of the four who were indifferent about if the court knew their reason for filing were in the earliest stages of their divorce and had not yet served the other party. Contrastingly, the two litigants who felt that the court and judge knowing why they were divorcing the other party, were at the latter stages of their divorce, one litigant working on the paperwork for the final judgment, the other working on a trial setting. Both had been working on their divorce for over one year. From these six litigants, there appears to be a correlating effect between the stage of divorce the litigant is at, and the litigant’s desire for the court to know why they are filing for a divorce.

One litigant who expressed her support for the court knowing her reason for divorcing the other party stated that she was divorcing the other party due to a child molestation accusation.

For her, the issue of justice was connected to the court knowing more details about her situation. As she explained:

I think [the court] thought my divorce was very cut and dry and it wasn't. They didn't take into consideration the history....The truth hasn't really come to light...I don't think it [the law] is fair and I don't think it's correct...I would investigate cases more...[the court or judge knowing the reason for getting a divorce is] super important. Well that's what it's all about. Why would you go to court and get a divorce if they don't know why exactly what's going on? I think the court should know why you're getting a divorce because if they know why you're getting married they should know why you're getting a divorce.

The intent behind asking litigants of how much they prioritized the judge knowing the reason they were filing for a divorce was in order to examine how litigants themselves felt about the no-fault aspect of California's divorce law. This litigant's response corresponds with the survey data in that she feels very strongly about the judge knowing her reason for divorcing. Yet, she does not necessarily imply this is because she wants to cast some blame or culpability on the other party for the dissolution of the relationship. Rather, she perceives the judge knowing why she is getting a divorce with obtaining a fairer divorce settlement and achieving justice.

The idea of justice as fairness manifests itself in two ways from this response. The litigant suggests that because there was not enough transparency about her divorce, that because there was not enough investigation done about her situation, the law was unfair. Additionally, she suggested that because there was transparency in the law about the reasons for getting married, the same condition should also apply for divorce.

This second idea highlights one of the most important findings from both the surveys and the interviews about how litigants feel about California's divorce laws. For many litigants, there

is as much dissatisfaction due to the discrepancy in ability to obtain a divorce and the ability to get married. Specifically, litigants feel that there should be as many obstacles as there are to getting married.

F. Changes to Marriage

At the conclusion of the survey, litigants were asked to write changes they would make to the divorce process and to the marriage process. Several litigants responded that they would make the process of getting a divorce simpler, which is unsurprising considering how difficult and burdensome many of them perceive from the process of finalizing their divorce. However, many more litigants wrote of their dissatisfaction with getting married, articulating that as opposed to divorce, it was too easy for them to get married. 10% of the total respondents expressed that they would make the process of getting married more difficult with one litigant writing, “Make it hard to marry as it is to divorce!! Would deter people who aren't serious!” and another writing, “It should include a set of the divorce packet so that you know what you are getting into.”

Thus, some of these responses indicate that the ease of the marriage process makes it so that people who unprepared for marriage can still get married, causing for future problems and divorce. Ms. Zacarias also states that many litigants state that if they had known how difficult the process of getting a divorce was, they would not gotten married in the first place, a sentiment very similar to the second survey comment provided. It is clear that many litigants, when taking a retrospective look of their circumstances when they got married, feel that they were not ready or “serious”.

One litigant who was interviewed stated that she would make lengthen the process of getting married, while the same litigant who expressed strong support for the court knowing the

reason she was filing for a divorce cited a concern about the process of marrying that echoes some of the responses provided on the survey. When asked what if she would change something about the process of getting married, she stated,

Yes I think people need extensive training before they get married. I don't think none of us are ready to face...we're poor judges as people of who we're marrying...people are not educated enough [about]...how to be married. What to look for in a person. I think in schools that should be happening. In high school. There shouldn't be a choice for taking these classes. I think they need to be mandatory.

Other suggestions on how to improve the marriage process were also provided in the survey responses. Several litigants suggested that marriage counseling be mandatory within the process of getting married. One litigant specified that in the marriage process, she would require separate and conjoined marriage counseling for six months before and after getting married.

It is likely that the litigant did not arbitrarily choose this six-month time period. It would be unsurprising if whoever provided the above response picked the six-month time period in regards to the mandatory six month waiting time period starting from the time the respondent is served with the petition for a divorce before a divorce can be finalized. There seems to be a certain irony and discrepancy between the intent of the California legislature and the opinions of these low-income litigants. While the legislature appeared to believe that a cooling-off period was needed before a divorce was finalized, this particular would rather there be a cooling-off period before their marriage was finalized.

A Snapshot of Low-Income Versus Affluent

In addition to interviewing both low-income female litigants and the staff attorneys for the legal clinic at the self-help center in San Fernando, Debra Schoenberg of Schoenberg Family

Law Group PC, in San Francisco was interviewed in order to obtain a snapshot of how the divorce process for her more affluent clients compares to the experiences of the litigants who seek help from the self-help clinic.

Ms. Schoenberg states that she has been practicing family law for twenty-eight years in both New York and California. Most of her clients are affluent. Some of her cases involve property settlements worth \$40-\$50 million dollars, and she explains that if the size of the community estate is under \$3 million dollars, her services should not be used because the fees would be too high.

One of the first differences that Ms. Schoenberg mentions is the consistency of the common reasons that her clients give for filing a divorce and the lack of effect the economic climate. This is a clear discrepancy from low-income litigants, in that the economic climate does influence the decision to divorce. She states the three common reasons for filing a divorce are “kids, sex, and money” (Schoenberg). Children either put too much pressure on the relationship or the couple abandons their relationship for the sake of the children. With sex, either there is infidelity or no intimacy between the couple. Financially, she explains

And money is money. People fight when they have too much, people fight when they have too little. Boom or bust, my practice is always protected from any effects in the economy.

Whether we're in an up economy or down economy, people's marriages are strained by too much wealth or too little wealth...it's not about having a lot or a little. It's about whether the foundation of your marriage can support it.

These three cited issues are certainly present with low-income litigants' situations, but the survey responses present some slight divergence. Besides incompatibility, the most common reasons given for divorcing their spouse were “financial struggles/disagreements”, “infidelity”,

and “violence/emotional abuse”. Thus low-income litigants may relate to their wealthier counterparts in that both issues of intimacy and money can catalyze the disintegration of their relationships. However, comparing Ms. Schoenberg’s statement and the survey responses, it appears that low-income litigants may experience more violence in their relationship than wealthier women. Ms. Schoenberg does state that that violence and abuse does affect her clients, but she categorizes these issues as “sub-terrain under the kids, sex, and money fight,” (Schoenberg). And while many of both Ms. Zacarias and the interview subjects cite children as being prioritized for low-income litigants during the divorce process, the survey data, which indicates only six percent of respondents cite disagreements over children as being the reason for filing a divorce. In other words, lower-income litigants might not perceive children as being the reason for filing a divorce, even though they are prioritized throughout the process. This contrasts with Ms. Schoenberg’s statement in that for more affluent clients, the issue of children can instigate clients to begin the process of filing for a divorce.

Unsurprisingly, the level of contentiousness regarding the division of property with Ms. Schoenberg’s clients is higher than the contentiousness reported by the interview subjects. One similarity between both Ms. Schoenberg’s affluent female clients and the low-income female litigants is the priority placed on the well-being of children.

Another discrepancy between the low-income female litigants who come to San Fernando and Ms. Schoenberg’s clients is that time is not necessarily as heavy a burdensome consideration. Income is the main factor with Ms. Schoenberg stating that the clients with more money may spend little to no time per week working on the divorce. She explains this may be because the clients are not as invested, or because they sense that their time is more profitably spent elsewhere.

When asked about how she perceives no-fault aspect of California's divorce law, Ms. Schoenberg, having practiced also in New York during the time when it was still fault state provides a narrative of how faulty divorce contributed to the adversarial nature of divorce:

I spent the first the ten years of my practice in New York State... So for 10 years I had to produce divorce complaints where it was all about fault. I'm entitled to divorce because he did this and he did that. Page after page, paragraph after paragraph... A husband gets whacked with set of divorce papers... and there are 20 pages of the sins committed of the course of this marriage. Can you imagine then wanting to sit in a room with someone and have a meaningful conversation about the two most important things in your life, your kids and your money when someone has just accused you of everything under the sun? It's a horrendous way to start the conversation about some of the most important things these people will ever go through. So, I'm a big fan of no-fault, because there is no reason to let all this blood out on the floor. It doesn't accomplish anything.

Another area where Ms. Zacarias and Ms. Schoenberg converge is the issue of more marital resources. Ms. Schoenberg sentiments are identical to that of Ms. Zacarias' in that she does not support the idea of the state interfering with a couples' decision to get married, but at the same time she says, "Do I think there should be more opportunity for people to understand what they're getting into? Absolutely... People say to me all the time, why didn't anyone tell me these things existed... My answer is I don't know," (Schoenberg).

Study Limitations

My thesis suffers some several limitations. One of the largest limitations came with time constraints I faced in interviewing litigants. Many of the litigants were in a hurry to leave the center, so those that were willing to let me interview them provided me with shorter interviews.

The longest interview conducted with a subject was 17 minutes, and the majority of interviews lasted under 10 minutes. It is very possible that more interviews lasting for a longer amount of time could extract more thorough narratives to help provide a richer elaboration to the survey results.

This is particular true in terms of acquiring better contextualization with the survey findings regarding mediation and favoring the court and judge knowing the reasons for divorce. More probing could have been done with interview respondents to gauge their opinions about how they thought mediation impacted their relationship. A deeper analysis could be provided from interviewing more litigants who strongly felt that the court should be aware of why they were filing for divorce.

The surveys also faced shortcomings from questions not asked. I did not litigants about how much they priority they placed on how the community property from their marriage was divided. Obtaining survey results about this question would have helped verify whether the interview subjects, who had little to no concern about property reflected the sentiments a larger group of low-income litigants or if they were actually a minority.

Conclusion and Synthesis

There are some difficulties into ascertaining just how much of the goals of Governor Brown's divorce reforms were realized for low-income women. The litigants themselves, after all, cannot compare how their experience undergoing a divorce with fault would differ from undergoing their divorce California's current no-fault state. Yet, there are certain indicators that the divorce reform was somewhat successful in achieving a few of its goals.

For example, from the interviews alone, one litigant reported that the divorce process helped reconcile her relationship with the other party. In fact, her interview took place at the

clinic where she was receiving assistance to file a dismissal. Moreover, both Ms. Schoenberg and Ms. Zacarias, who have experienced divorce laws necessitating a proof of fault, express strong support for the no-fault divorce laws. For them, no-fault divorce law may not improve the relationship, but it certainly doesn't prompt the relationship to reach a higher level of contentiousness, which, according to both attorneys, was a problem with fault divorce law.

While the attorneys express support for no-fault, it is still somewhat difficult to ascertain how supportive litigants themselves are of no-fault divorce law. While a significant portion of survey respondents expressed support for the judge knowing their reason for filing a divorce, this does not necessarily indicate the reason for these sentiments is based on wanting to publicly blame the other party. The interview with litigant demonstrated that having the judge know why she was filing for a divorce was so that the judge would make a more informed decision about the specific details of her divorce settlement. Moreover, the majority of interview respondents did not feel strongly either way about the judge knowing their reason for obtaining a divorce. This fact may be prioritized over the survey results for in the interview, litigants are given an opportunity to express their feelings in more detail. That the interview subjects did not express blame on the other party or a particularly strong feeling about whether their court documents revealed why they were filing for divorce may, more than the surveys, indicate low-income litigants do not prioritize an idea of fault or likewise no fault in their divorce.

Moreover, when looks at other aspects of divorce law that litigants are forced to experience, it becomes clear that emphasizing of fault—or no-fault—may not be an issue with California's divorce laws that resonate the most with low-income women. The reason for this can be observed when one examines what concerns litigants express about the divorce law; these concerns, mostly of time, expense, and paperwork come from the procedure to obtain a divorce.

These difficulties in the divorce process are not just limited to low-income litigants in California but also low-income litigants in other areas of the United States. An in-depth look by Amy Henderson at Missouri's process for obtaining a divorce for self-represented litigants portrays such obstacles and issues such as the overwhelming structure, regulations, and procedure involved when filing a divorce (575). These are the very same obstacles cited by the low-income female litigants who come to the San Fernando self-help clinic seeking assistance.

For low-income litigants, being able to complete their divorce is a priority but also an obstacle. The complexity of the paperwork, the strain of finding time in order to progress their divorce, debating whether or not to take the day off work to come to the center to work on their divorce forms are at the forefront of their perceptions of divorce law. The substantive quality of divorce is overshadowed by the procedure. For low-income litigants, their perception of divorce law is influenced by the procedure they must go through, in which the complexity stems from their socioeconomic status. Unlike their more affluent counterparts, low-income litigants do not have the luxury of having to spend only a small amount of time on their divorce.

Another prominent result from the data is that many low-income litigants place fault on the procedural nature of marriage and attribute flaws they observe in the process of getting married to their divorce. The main flaw they see with getting married is that it is too easy. However, this perception of marriage also implicates that litigants themselves feel that they were not ready to enter into marriage. This suggests that underlying reason their relationships disintegrated to the point of divorce was because the foundation for a sustainable marriage was not established to begin with, and moreover, placing more obstacles before marrying could reveal that. In other words, litigants feel that the same concern the law takes to make sure that a couple is absolutely certain that their relationship is irreparable before divorcing should be given

to make absolutely certain a couple is ready for marriage. For them, the law should be structured not through decreasing preventable divorces but around preventing unsustainable marriages.

Part of the problem with marriage that low-income litigants perceive is limited supportive resources. This problem is also a phenomenon Ms. Schoenberg describes existing for her more affluent clients. While Ms. Schoenberg states that her female clients are likely to have strong support groups either from friends, family, or spiritual leaders like a priest or rabbi, she still states that there could be more opportunities for people to obtain more information about marriage and divorce. Ms. Zacarias also states her desire to see more resources, not just premarital counseling for low-income litigants, but also counseling during marriage for low-income litigants.

Perhaps a more effective discussion in order to the goals of “the law must be designed to promote family stability, by preventing divorce where it is not warranted, and reducing its harmful effects where it is necessary,” (Dinkelspiel and Gough 72), for low-income female litigants should not be based on the issue of fault or culpability. Instead, promoting accessibility, both in terms of obtaining a divorce and also in terms of marital and premarital counseling services.

There has been evidence that shows that low-income people do benefit from marital counseling when provided the opportunity. A 2012 study provided by Alan Hawkins and Theodora Ooms in the *Marriage and Family Review* states that when low-income couples are given the resources “participate in well-designed well-designed marriage and relationship education programs when they are offered, enjoy the educational experience, and report that the program is helpful” (Hawkins and Ooms, 541). Another reason that points to why low-income litigants may benefit from counseling is because, contrary to the earlier fears purported

from Governor Brown, litigants do not enter into divorce hastily.

Besides the earlier cited evidence from the San Fernando Clinic from Ms. Zacarias who reports that litigants have been separated with their spouse for extensive periods of time, in another recent study, low-income couples were “less likely to agree that divorce was a ‘reasonable solution to an unhappy marriage,’” (Trail and Karney, 419). This same report advocates that state intervention program to improve upon various aspects of low-income couples’ relationships should be more common (Trail and Karney, 419). Moreover, another 2009 study found a statistically significant inverse relationship between marriage initiatives and divorce prevalence (Kickham and Ford 852).

In conclusion, my thesis discovered that the relationship between no-fault divorce and low-income litigants is strongly influenced not by the nature of no-fault, but by the procedural obstacles the litigants face. Moreover, while the divorce reforms from 1969 certainly improved on mitigating the animosity between parties going through a divorce, for low-income litigants, there is a very low frequency of entering into divorce prematurely. Litigants themselves feel more confident in their decision to divorce and imply that their decision to divorce was made with more concern than their decision to get married. Thus for low-income litigants, while divorce poses a problem, the real problem and more attention ought to be placed on reforming the divorce procedure, but also on providing more accessibility to help low-income litigants improve their marriages.

Future Research:

Future research could draw a richer comparison between fault and no-fault divorce law and low-income litigants. It would be worth comparing and contrasting the experiences of low-income litigants who divorced under fault divorce law, and those who divorced under no-fault to

see if there are any substantial differences.

Given my findings, future research could compare divorce rates in areas where there are more stringent requirements for getting married in order to explore more the possibility of a link between the accessibility of marriage and divorce rates among low-income couples. Similarly my thesis suggests that more studies such as Trail and Karney's should be conducted about the impact of pre-marital counseling resources for low-income litigants. Couples who have gone through counseling should be asked about whether it benefitted or damaged the relationship, or if counseling affected the decision to get married. It should also be examined if these couples are still married or if they are divorcing. If such studies verify Ms. Zacarias and Ms. Schoenberg's opinions about the benefits from more access to more pre-marital counseling, this may help make Governor Brown's hope for reducing the divorce rates a reality by preventing impractical marriages.

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The following survey is for an undergraduate thesis examining the effects of California's divorce law and the divorce process. All answers will be strictly confidential and results will be used for academic and educational purposes only.

- 1) Did you qualify for a fee waiver? (Check One)
 - Yes
 - No
- 2) Are you filing in this courthouse? If not, which courthouse are you filing your divorce (Pasadena, Van Nuys, etc.)?
 - Yes
 - No
- 3) Do you have children? If Yes, how many?
 - Yes
 - No
- 4) Are you employed? If not skip to question 6
 - Yes
 - No
- 5) Please indicate, on average, how many hours you work per week: _____ hours
- 6) Please indicate, on average, how many hours you spend doing household tasks (paying bills, groceries, laundry, cooking, cleaning etc.) per week: _____ hours
- 7) Please indicate, on average, how many hours you spend on working on the divorce (filling out and organizing paperwork, visits to the courthouse, mediatio, etc.) per week: _____ hours
- 8) Please estimate how much money you have spent so far in completing your divorce (includes filing fees, attorney/paralegal fees, associated travel costs, childcare, missed work, etc.): \$_____
- 9) Are you the Petitioner or Respondent? Select one
 - Petitioner
 - Respondent
- 10) Why are you getting divorce? Select one or more
 - Incompatibility
 - Financial struggles/disagreements
 - Violence/Emotional Abuse
 - Infidelity
 - Disagreements regarding children
 - Other:
- 11) On a scale on of 1 to 5, how important is it that the court and judge know the reason you are getting a divorce? Circle one:

1 2 3 4 5

1 = I do not want the court to know why I am filing for divorce	4 = Somewhat important
2 = Neutral/indifferent if court or judge knows why I am filing for divorce	5 = Very important
3 = Slightly important	

12) At this point in your process of divorce, have you needed to go to mediation?

- Yes No (if selected, skip to question 15)

The following questions ask you to evaluate the extent of the damage and improvement mediation and the divorce process has had on your relationship with other party from a scale of one to five. Here is a scale for reference as you answer these questions

1 = No improvement/damage	4 = Some improvement/damage
2 = Very slight improvement/damage	5 = Significant improvement/damage
3 = Slight improvement/damage	

13) On a scale of 1 to 5, would you say **mediation** has improved your relationship with the other party? (Circle One)

1 2 3 4 5

14) On a scale of 1 to 5, would you say **mediation** has damaged your relationship with the other party? (Circle One)

1 2 3 4 5

15) On a scale of 1 to 5, would you say the **divorce process** has improved your relationship with the other party? (Circle One)

1 2 3 4 5

16) On a scale of 1 to 5, would you say the **divorce process** has damaged your relationship with the other party? (Circle One)

1 2 3 4 5

17) What are some adjectives you would use to describe the divorce process? Circle as many that apply.

- | | | |
|--------------------|----------------|-----------------|
| a. Complicated | d. Humiliating | g. Fair |
| b. Straightforward | e. Healing | h. Unfair |
| c. Empowering | f. Harmful | i. Other: _____ |

18)

Would you change anything about the divorce process? If so what? Please Comment Below:

19) Would you change anything about the process of getting married? If so what? Please comment below: