

PROHIBITING DIVORCE, PRESERVING HARMONY : A MAQĀṢIDI AND GENDER JUSTICE ANALYSIS OF THE *MAK DIJUK SIANG* TRADITION IN LAMPUNG PEPADUN COMMUNITY, INDONESIA

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Abstract

This study aims to explain the practice of the Mak Dijuk Siang tradition as a prohibition of divorce in the indigenous people of Lampung Pepadun Ratu Buay Semenguk and assess its relevance through the perspective of maqāṣid al-syarī'ah and gender justice theory. This tradition places marriage as a social institution that must be maintained through multi-layered conflict resolution mechanisms, ranging from the nuclear family to traditional contractors, so that divorce is seen as an act that undermines clan honor and social stability. The study used a descriptive-analytical qualitative method by combining primary data from interviews and secondary data from Islamic family law literature, maqāṣid al-syarī'ah, and gender studies. The results of the study show that Mak Dijuk Siang is in line with the principles of Islamic family law which emphasizes family reconciliation and mediation before divorce is taken. Within the framework of maqāṣid al-syarī'ah Jasser Auda, this tradition functions to comprehensively protect honor, descent, and social welfare. Gender analysis shows the potential for inequality due to patrilineal structures, but customary practices also contain protective mechanisms through the role of traditional leaders that function to maintain balance and justice. This tradition can be maintained as long as it is interpreted adaptively and remains oriented towards family justice.

Keywords: *Mak Dijuk Siang; Divorce Customs; Maqāṣid al-Syarī'ah; Gender Justice.*

Abstrak

Penelitian ini bertujuan untuk menjelaskan praktik tradisi *Mak Dijuk Siang* sebagai larangan perceraian pada masyarakat adat Lampung Pepadun Ratu Buay Semenguk dan menilai relevansinya melalui perspektif maqāṣid al-syarī'ah dan teori keadilan gender. Tradisi ini menempatkan pernikahan sebagai institusi sosial yang harus dijaga melalui mekanisme penyelesaian konflik berlapis-lapis, mulai dari keluarga inti hingga kontraktor tradisional, sehingga perceraian dipandang sebagai tindakan yang merusak kehormatan marga dan stabilitas sosial. Penelitian ini menggunakan metode kualitatif deskriptif-analitis dengan menggabungkan data primer dari wawancara dan data sekunder dari literatur hukum keluarga Islam, maqāṣid al-syarī'ah, dan studi gender. Hasil penelitian menunjukkan bahwa *Mak Dijuk Siang* sejalan dengan prinsip-prinsip hukum keluarga Islam yang menekankan rekonsiliasi keluarga dan mediasi sebelum perceraian diambil. Dalam kerangka maqāṣid al-syarī'ah Jasser Auda, tradisi ini berfungsi untuk melindungi kehormatan, keturunan, dan kesejahteraan sosial secara komprehensif. Analisis gender menunjukkan potensi ketimpangan akibat struktur patrilineal, namun praktik adat juga mengandung mekanisme perlindungan melalui peran pemimpin adat yang berfungsi untuk menjaga keseimbangan dan keadilan. Tradisi ini dapat dipertahankan asalkan ditafsirkan secara adaptif dan tetap berorientasi pada keadilan keluarga.

Kata kunci: *Mak Dijuk Siang; Cerai Adat; Maqāṣid al-Syarī'ah; Keadilan Gender.*

INTRODUCTION

The indigenous people of Lampung Pepadun are one of the ethnic communities in Indonesia that still maintain a strong social system, kinship structure, and customary norms in the midst of the modernization process. For the Pepadun people, customs are not just cultural heritage, but are a source of social legitimacy that regulates family life, inter-clan relations, and conflict resolution mechanisms. Customary structure consisting of contributors, distribution systems, and principles *The Squirrel Hunt* Forming complex and sustainable patterns of social interaction (Salim, 2023). In the context of the Ratu Buay Semenguk community in Hanakau Jaya Village, North Sungkai District, traditional traditions are still actively implemented and are seen as having an important position in maintaining social harmony.

One of the prominent customary norms in the Pepadun community is the tradition *Mak Dijuk Siang*, which is the prohibition against living divorce. This tradition contains the provision that married couples are not allowed to divorce as long as both are still alive, because divorce is considered to have the potential to damage clan honor, weaken social structure, and cause disharmony in relations between descendants. The enforcement of this tradition involves a multi-layered customary mediation system, ranging from the nuclear family to the interlocutors, making it an integral part of the indigenous peoples' conflict resolution mechanism. This practice shows that the Pepadun custom places marriage as an institution that must be maintained for the sake of community sustainability (Asnawi, 2024).

This phenomenon is interesting to study in the perspective of Islamic family law, since the sharia also places marriage as a sacred contract (*Mithāqan Ghalīẓan*) which must be maintained through the principle of *reconciliation* and *Islah* Before divorce can be taken (Syafi'i et al., 2023). The involvement of the family as a mediator in resolving domestic conflicts is in line with the commands of the Qur'an in the Qur'an. An-Nisā' verse 35, thus opening up a space for dialogue between customary norms and the principles of Islamic law. Thus, the tradition *Mak Dijuk Siang* It can not only be understood as a cultural phenomenon, but also as a social practice that has a foundation of knowledge with sharia principles regarding the integrity of the household.

Approach *maqāṣid al-syarī'ah* Jasser Auda provides additional analytical needs in looking at the relationship between customary traditions and sharia. Auda emphasized that the goals of sharia must be viewed systemically, openly, and comprehensively oriented towards human benefit. Within this framework, customary traditions can be judged not only by normative texts, but by the social and moral functions they produce. Tradition *Mak Dijuk Siang* that maintain family honor, hereditary stability, and social

order can be analyzed as part of the benefits that are in accordance with the *maqāṣid*, as long as its implementation does not cause injustice, especially for women (Shandana, 2024).

Gender analysis through Mansour Fakih's theory adds a critical dimension to this study. The patrilineal structure of Pepadun and the conflict resolution mechanisms carried out by husbands' families have the potential to place women in subordinate positions. However, the customary context shows that the structure also contains protective mechanisms through the role of traditional leaders such as *Long Term* who act as a respected mediator (Interview, 2025). Thus, gender studies are needed not to confront customs, but to ensure that traditions can be carried out fairly without sacrificing cultural values.

Departing from this background, this study seeks to comprehensively analyze the *Mak Dijuk Siang* tradition in the indigenous people of Pepadun Ratu Buay Semenguk using three main approaches, namely Islamic family law, *maqāṣid al-syarī'ah* Jasser Auda, and Mansour Fakih's theory of gender justice. This interdisciplinary approach is important for reading indigenous traditions as living social structures, while also looking at how they interact with contemporary religious values and demands for justice.

RESEARCH METHODS

This study employs an empirical legal research design within a socio-legal framework, utilizing a qualitative descriptive-analytical approach. The research is positioned as a socio-legal study because it examines law not merely as normative rules, but as *living law* that operates within social practices and customary institutions of indigenous communities. To capture this dimension, the study adopts an ethnographic approach aimed at understanding how customary norms concerning marriage and divorce are constructed, interpreted, and implemented in everyday social life.

Primary data were obtained through in-depth interviews with traditional leaders and customary figures of the Ratu Buay Semenguk indigenous community in Hanakau Jaya Village. In addition to interviews, field data were supported by non-participant observation of customary practices and deliberative processes related to family dispute resolution, as well as documentation of customary norms and community narratives. The identities of informants are anonymized in the main text to maintain ethical considerations and social sensitivity.

Secondary data were collected through a literature review covering Islamic family law, *maqāṣid al-syarī'ah*, gender justice theory, and anthropological as well as socio-legal studies on Lampung customary law. These sources are used to construct the analytical framework, contextualize empirical findings, and situate the *Mak Dijuk Siang* tradition within broader legal and academic discourse.

Data analysis was conducted through an inductive-analytical process. Empirical findings were first organized based on key thematic categories, including customary social structure, mechanisms of family conflict resolution, the prohibition of divorce, and their interaction with Islamic law, *maqāṣid al-syarī'ah*, and gender justice perspectives. Rather than relying on thematic analysis alone, the study integrates socio-legal interpretation by continuously relating field data to normative legal principles and theoretical frameworks, thereby producing a comprehensive understanding of the meaning and function of the Mak Dijuk Siang tradition within the Pepadun indigenous legal system.

RESULTS

Overview of Lampung Indigenous People Pepadun Ratu Buay Semenguk, Hanakau Jaya Village

The Lampung Pepadun indigenous people in the Ratu Buay Semenguk area, Hanakau Jaya Village, North Sungkai District, are one of the indigenous communities that maintain a strong traditional social structure and value system in the midst of rapid modernization. The existence of this community shows that the customs still function as *Living Law*, which is a law that lives and binds members of society in real life in daily life. In the Pepadun community, customs are not only understood as cultural heritage, but also as a social system that regulates family relations, social order, and conflict resolution mechanisms (Isdiyanto et al., 2023).

The social structure of the Ratu Buay Semenguk community is built on a system Collaboration, namely a collective and hereditary-based traditional leadership structure. Each clan is led by a clan who has customary authority to regulate the clan's internal affairs, resolve disputes, lead traditional ceremonies, and maintain clan honor. This collective character makes customary authority not centralized on a single individual, but distributed proportionally among several contributors. Thus, the customary decision-making process is carried out in a deliberative manner so that it reflects the democratic leadership model embedded in the social structure of Pepadun (Irham, 2014).

The kinship system in the Pepadun community is patrilineal, where lineage and customary status are passed down through the male line. Married women join their husband's family and become part of the husband's clan social system. This change in status is not just symbolic, but has significant social and customary consequences. Women are integrated into the husband's clan and are bound by the norms, obligations, and customary protections provided by the husband's family. The presence of women in the husband's family is also part of the relationship between clans that must be maintained in harmony (Wijaya et al., 2024).

Value *The Squirrel Hunt* became the moral center of the Ratu Buay Semenguk community. These values serve not only as ethical guidelines, but also as a social regulatory mechanism that governs individual behavior in society. *Piil pesenggiri* Requires every member of the family to maintain personal and clan dignity in all aspects of life, including in domestic life. Consequently, any act that is considered to injure the honor of the family, such as open quarrels, violence, and divorce, is seen as a serious violation of customary moral values (Fernanda & Samsuri, 2020).

Hanakau Jaya Village occupies an important position because it is one of the areas whose customs are still carried out in a complete and balanced manner. Customary ceremonies, deliberation of the devotees, the granting of customary titles, the settlement of family disputes, and customary sanctions are still carried out according to ancestral rules. Indigenous life in this region is shaped by close hereditary relationships between families and collective awareness to maintain the cultural identity of Pepadun. These factors make the custom remain relevant and not just a cultural symbol, but really a social bonding mechanism (Interview, 2025).

In the context of conflict resolution, the Ratu Buay Semenguk community has a tiered customary mechanism and involves many parties. Domestic conflicts are never seen as a purely personal matter because of their potential impact on clan honor and inter-generational relationships. Problem-solving systems involve the nuclear family, extended family, uncle figures (*Long Term*), to the interlocutor. This mechanism reflects a customary mindset that emphasizes that household stability is part of the social stability of the community as a whole, so any form of conflict must be resolved through a collective process aimed at maintaining harmony (Haq & Rachman, 2022).

The Tradition of Mak Dijuk Siang in the Ratu Buay Semenguk Indigenous Community

Tradition *Mak Dijuk Siang* is one of the most fundamental customary norms in the Pepadun Ratu Buay Semenguk community. This tradition stipulates a prohibition against living divorce, which is divorce carried out while the spouse is still alive, not divorce due to death. This prohibition not only has a moral basis, but also has a strong social structural basis, especially since divorce is considered to cause inter-clan tensions, damage hereditary relationships, and degrade the customary status of the families involved (Wawancara, 2025).

Norm *Mak Dijuk Siang* It was born from the view that marriage is not only a personal bond between husband and wife, but a bond between two large families that brings social, moral, and customary consequences. Therefore, divorce of life is seen not only as an individual failure, but as a social offense that has an impact on clan honor. Violations of this norm can lead to customary sanctions which in some cases include loss

of customary status, restrictions on family participation in customary events, and the obligation to hold customary restoration rituals that are material and symbolic (Wawancara, 2025).

In the traditional structure of Pepadun, the position of women after marriage becomes part of the husband's clan. Women are not only members of the family domestically, but also customarily. Therefore, the community views that every domestic problem must be solved through the internal mechanism of the husband's clan. The transfer of a woman back to her parents' home is considered a violation of customary law because it is seen as restoring the status of a woman to her family of origin, even though traditionally she has become part of her husband's family and must be resolved by the traditional structure of the husband's clan (Asnawi et al., 2020).

The resolution of domestic conflicts in the Ratu Buay Semenguk customary system runs in stages. The first stage is the effort to resolve the nuclear family through a dialogue mechanism. The second stage involves the husband's extended family to provide advice, become a mediator, and prevent escalation of conflict. The next stage involves traditional figures in the extended family such as uncles (*Long Term*) who have an important position as a respected mediator. If the conflict cannot be resolved, the case will be continued to the clan level customary deliberation or deliberation. This layered mechanism aims to keep the marital bond intact and prevent divorce from occurring (Wawancara, 2025).

Customary sanctions are applied if a divorce still occurs. These sanctions are not only material, but also social and moral. The loss of customary status, the reduction of the right to participate in customary activities, and customary restoration rituals are consequences for families who violate. The sanctions are not just punishments, but are a social mechanism to ensure that indigenous values are respected and for people to avoid actions that can disrupt the social stability of the community (Hanafi, 2024).

In the context of the community of Ratu Buay Semenguk, *Mak Dijuk Siang* It is maintained because it is considered a social instrument to maintain community harmony and prevent prolonged conflicts between descendants. Traditional values, especially clan honor values, are the main orientation in the application of this tradition. Thus, *Mak Dijuk Siang* not only customary rules, but also social systems that shape conflict resolution patterns and maintain overall community integration (Wawancara, 2025).

Customary Mediation Mechanism in Domestic Disputes

Empirical findings reveal that the resolution of domestic conflicts under *Mak Dijuk Siang* follows a gradual and hierarchical mediation process. Initial resolution efforts take place within the nuclear family through dialogue between spouses and close

relatives. When unresolved, mediation escalates to involve the extended family of the husband, whose role is to provide advice, moral guidance, and preventive intervention.

If conflict persists, respected customary figures such as uncles (*long*) become involved as mediators. These figures possess moral authority and play a crucial role in facilitating communication between disputing parties. In cases where mediation remains unsuccessful, disputes are brought before clan-level customary deliberations. These forums aim to reach collective decisions that prioritize household continuity and social stability. Customary sanctions are applied when divorce occurs despite exhaustive mediation efforts, reflecting the community's commitment to preserving customary values.

DISCUSSION

Islamic Family Law Perspective on Domestic Integrity in the Context of Pepadun Customs

In Islamic family law, marriage is conceptualized as both a spiritual and social institution. The Qur'an characterizes marriage as a *mitsāqan ghalīẓan* (a solemn covenant), indicating a binding moral and legal commitment not only between two individuals but also between their respective families. This conception positions marriage as a foundational institution for the stability of Muslim society, in which the continuity of the household is highly valued (Maimun, 2022).

Although Islamic jurists differ regarding the circumstances that may alter the legal character of marital relations, they generally agree that Islamic law encourages spouses to preserve the household to the greatest extent possible. This orientation reflects the broader sharia vision that regards the family as the primary unit for safeguarding moral order, lineage, and social harmony.

One of the important principles in Islamic family law is *mu'āsyaarah bil-ma'rūf*, which is the obligation to interact appropriately and respectfully. Allah said:

(QS. An-Nisā' 4:19) وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ
"Treat them in a proper way."

This verse establishes that marital authority cannot be exercised through oppression, neglect, or harm. Rather, marital relations must be grounded in ethical responsibility and mutual respect. This normative principle resonates with the Mak Dijuk Siang tradition, which seeks to maintain household stability and prevent prolonged conflict. Within the Pepadun kinship-based social structure, marital integrity is not merely a private matter but is intrinsically connected to clan honor and social cohesion.

Another important principle in Islamic family law is the *islah* mechanism, which is the process of peace, mediation, and family mediation when domestic conflicts occur. The Qur'an affirms:

(QS. An-Nisā' 4:35)

فَابْعَثُوا حَكَامًا مِّنْ أَهْلِهِ وَحَكَامًا مِّنْ أَهْلِهَا

"So send a mediator from the family of a man and a mediator from the family of a woman."

This verse affirms the central position of the family as a mediator in resolving domestic disputes. The hierarchical mediation mechanism in Pepadun customary law beginning with the nuclear family, followed by the extended family, uncles (*long*), and customary leaders functionally reflects this Qur'anic mandate. Such mechanisms embody sharia values of prudence, deliberation, and gradual conflict resolution.

Islamic law, however, does not categorically prohibit divorce. Divorce is permitted as a legal remedy, though it is regarded as a last resort when reconciliation efforts have failed. Jurisprudential literature consistently emphasizes that divorce should not be pursued hastily or in a manner that inflicts harm (*darar*) (Erni & Arifin, 2025). In this regard, the Mak Dijuk Siang prohibition of divorce may be interpreted as a preventive measure aimed at protecting family structure and averting broader social fragmentation.

Nevertheless, Islamic family law does not absolutize marital preservation. Classical and contemporary juristic doctrines recognize divorce as legally permissible when continued marriage results in serious harm (*darar shar'i*), such as domestic violence, psychological abuse, chronic neglect of marital obligations, sexual incapacity, or persistent *nusyūz*. In such circumstances, divorce functions as a protective legal mechanism rather than a moral failure (Kusmardani et al., 2022). Empirical findings from the Pepadun community indicate that Mak Dijuk Siang strongly prioritizes reconciliation and clan honor. This emphasis may generate normative tension when customary mediation discourages divorce even in situations where Islamic law permits or necessitates separation to prevent injustice (Haq & Rachman, 2022). However, this tension does not signify an inherent incompatibility between Islamic law and customary norms.

Islamic legal theory acknowledges *'urf* (custom) as a valid legal consideration, provided that it does not negate fundamental principles of justice and harm prevention (Irfandi, 2025). Accordingly, Mak Dijuk Siang may be accommodated within Islamic family law insofar as its application remains flexible and responsive to circumstances involving serious marital harm, ensuring that social harmony does not override individual safety and legal rights.

Within the Pepadun indigenous context, divorce is understood not only as a moral issue but also as a social act capable of diminishing clan dignity. Islamic law similarly recognizes that divorce has social implications extending to children, families, and the

broader community. Therefore, a customary system that prioritizes mediation and discourages divorce may be understood as a form of *urf* that does not contradict sharia objectives and, in certain respects, reinforces them (Hanafi, 2024).

At this point, the interaction between Islamic family law and the Mak Dijuk Siang tradition demonstrates a convergence of normative values. Islamic law promotes the preservation of marriage, family-based mediation, and the avoidance of divorce except in situations of necessity. Pepadun customary law provides a social structure that operationalizes these values in daily life, thereby functioning as a living legal mechanism that supports family integrity, social honor, and community stability (Asnawi, 2024).

Analysis of the Mak Dijuk Siang Tradition in the Perspective of *Maqāṣid al-Syarī'ah*

The *maqāṣid al-syarī'ah* approach, particularly as developed by Jasser Auda, offers a comprehensive analytical framework for understanding the Mak Dijuk Siang tradition within the context of Islamic family law. Unlike classical *fiqh* approaches that tend to emphasize normative legal rulings, Auda's *maqāṣid* framework focuses on the objectives, impacts, and systemic consequences of legal norms, including justice, human dignity, and social stability. This approach is especially relevant for assessing living customary practices, as it accommodates *urf* as a valid normative source insofar as it remains consistent with fundamental sharia values (Rama, 2021).

Within the *maqāṣid* framework, the family is viewed not merely as a legal institution but as a social, psychological, and cultural system that must be safeguarded holistically. Accordingly, the Pepadun prohibition of divorce under the Mak Dijuk Siang tradition may be interpreted as a mechanism aimed at protecting essential dimensions of family life. Both classical and contemporary *maqāṣid* scholarship associates family preservation with two core objectives: the protection of honor (*ḥifẓ al-'ird*) and the protection of lineage (*ḥifẓ al-nasl*) (Wan Ahmad et al., 2021)

First, *Mak Dijuk Siang* has the function of *ḥifẓ al-'ird* because this tradition maintains the dignity of the family so that it is not tarnished by open domestic conflicts. The Qur'an affirms the prohibition of degrading one's dignity:

(QS. Al-Hujurāt 49:11)..... وَلَا تَلْمِزُوا أَنْفُسَكُمْ
"And do not reproach one another."

In the Pepadun indigenous context, divorce is perceived as a social failure that can tarnish clan honor. Customary mechanisms therefore emphasize closed, gradual, and kinship-based mediation to prevent domestic disputes from developing into broader social fragmentation (Ali, 2019). This orientation aligns with *maqāṣid* principles that prioritize the protection of human dignity from avoidable harm.

Second, the *Mak Dijuk Siang tradition* serves to maintain *hifz al-nasl* or the continuity of the lineage. Family harmony is recognized by sharia as a condition for the formation of a good generation. Allah said:

(QS. At-Tahrīm 66:6)..... قُوا أَنْفُسَكُمْ وَأَهْلِيكُمْ نَارًا
"Protect yourself and your family from the fires of hell."

This verse shows that the maintenance of the family is a moral obligation. In perspective *maqāṣid*, taking care of offspring not only means maintaining the lineage, but also ensuring the child grows up in a stable environment. The traditional tradition of Pepadun that prevents divorce provides greater space to maintain emotional security and the continuity of family relationships which will later affect the social structure of the next generation (Wan Ahmad et al., 2021).

Third, *maqāṣid* emphasizes *maslahah 'āmmah* or public benefit. The Shari'a prohibits actions that have the potential to cause social harm:

(QS. Al-A'rāf 7:56)..... وَلَا تُفْسِدُوا فِي الْأَرْضِ بَعْدَ إِصْلَاحِهَا
"Do not make any damage to the earth after it has been repaired."

In hereditary societies such as the Pepadun custom, divorce does not only break the relationship between husband and wife, but has the potential to cause tension between families, disputes over children's rights, and divisions in the social environment. The *Mak Dijuk Siang tradition* mitigates the potential for damage through a kinship and hierarchical mediation mechanism.

Fourth, the *maqāṣid* approach places justice as the main goal of the Shari'ah. Allah affirms:

(QS. An-Nisā' 4:58)..... وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ
"When you establish the law among men, then establish it justly."

Therefore, even if *Mak Dijuk Siang* have values that are in line with the sharia, the implementation must still be carried out fairly. In the context of patrilineal society, *maqāṣid* helps analyze whether a tradition places a disproportionate burden on women or whether mediation really prioritizes the benefits of both parties. Thus, *maqāṣid* Acting as a tool of moral evaluation so that customs run according to the principles of justice and do not sacrifice individual rights (Ramadhania, 2025).

Integration *maqāṣid* with Islamic family law shows that the tradition *Mak Dijuk Siang* has fulfilled most of the purposes of the Shari'ah, especially in maintaining the integrity of the household and avoiding harm. If Islamic family law provides a normative basis for marriage, mediation, and the prohibition of tyranny, then *maqāṣid* provides a

philosophical dimension of why these things are important to society (Khoirurrizal & Afnan Luthfi, 2025). In the context of Pepadun customs, this tradition is not only socially relevant, but also has legitimacy in *maqāṣid al-syarī'ah* because it maintains family dignity, hereditary stability, and social harmony. Thus, *Mak Dijuk Siang* can be positioned as a customary practice that is not just a local custom, but a tradition that is in line with and compatible with the noble goals of Islamic law.

At the level of *ḍarūriyyāt* (essential necessities), *Mak Dijuk Siang* serves to protect lineage (*ḥifẓ al-nasl*) and family honor (*ḥifẓ al-'ird*). In kinship-based societies such as the Pepadun community, the stability of marital relations is closely linked to the preservation of genealogical continuity and social identity. The Qur'anic command to safeguard family integrity in Q.S. At-Tahrīm (66:6) reinforces the moral obligation to maintain a stable family structure. From this perspective, the prohibition of divorce functions as a social instrument to secure essential *maqāṣid* objectives (Sutisna et al., 2021)

At the level of *ḥājjiyyāt* (complementary needs), *Mak Dijuk Siang* addresses practical social challenges by minimizing prolonged conflict between extended families. Divorce in hereditary societies often produces secondary disputes involving child custody, inheritance, and inter-clan relations. The structured mediation process embedded in *Mak Dijuk Siang* reduces these social hardships by providing gradual mechanisms for reconciliation and collective decision-making (Islam, 2024)

At the level of *taḥsīniyyāt* (ethical refinements), the tradition promotes values of patience, moral responsibility, and communal harmony. These values contribute to the cultivation of ethical conduct within the family and society. However, *maqāṣid* theory also requires critical evaluation when ethical ideals are enforced in ways that impose disproportionate burdens. If the prohibition of divorce results in sustained suffering or injustice, particularly for vulnerable parties, the pursuit of *taḥsīniyyāt* may conflict with *ḍarūriyyāt* principles (Nilfatri et al., 2023)

Accordingly, a *maqāṣid*-based assessment suggests that *Mak Dijuk Siang* should be understood as a flexible customary mechanism rather than an absolute norm. Its legitimacy within Islamic legal theory depends on its capacity to adapt to situations where the protection of essential human interests such as personal safety and dignity requires legal separation. In this sense, *maqāṣid al-syarī'ah* provides a normative tool for balancing collective social interests with individual justice.

Analysis of Gender Justice in the Mak Dijuk Siang Tradition through the Perspective of Mansour Fakih

Applying Mansour Fakih's framework of gender justice, this study argues that the *Mak Dijuk Siang* tradition embodies an ambivalent gender dynamic: it simultaneously

functions as a protective customary mechanism for family stability and as a structural constraint that may limit women's substantive agency. Fakih conceptualizes gender injustice as a product of hierarchical social arrangements that generate marginalization, subordination, stereotyping, excessive workloads, and unequal control over decision-making processes (Fakih, 2020). These analytical categories provide a critical lens for examining how customary authority operates within patrilineal legal cultures such as the Pepadun indigenous community.

Structurally, the Pepadun patrilineal system positions male customary figures—such as clan leaders, senior male relatives, and uncles (*long*)—as central actors in household mediation. Empirical findings indicate that women rarely participate directly in customary deliberation forums; instead, their experiences are commonly conveyed through male representatives (Wawancara, 2025). From Fakih's perspective, this configuration reflects a risk of subordination, as women's voices are mediated rather than articulated autonomously. Decision-making authority remains concentrated within male-dominated customary structures, which may limit women's capacity to influence outcomes affecting their own marital lives (Wulandari, 2021).

Nevertheless, field data also reveal that Mak Dijuk Siang does not operate uniformly to the detriment of women. In several documented cases, customary leaders intervened to restrain male misconduct, particularly in situations involving neglect of economic responsibilities or abusive behavior (Wawancara, 2025). The role of the *long* often functions as a protective channel through which women's grievances are acknowledged within customary forums. This indicates that the tradition contains internal mechanisms of protection rather than operating solely as a patriarchal instrument. However, such protection remains indirect and conditional, relying on male advocacy rather than women's direct participation. This condition illustrates a form of "protective patriarchy," which safeguards women's interests without fully empowering them as autonomous legal subjects (Zatadini et al., 2024).

Another dimension of gender injustice emerges in the form of moral and emotional burdens placed disproportionately on women. Fakih identifies this condition as excessive workload and gender stereotyping, where women are socially expected to endure hardship, remain patient, and prioritize family harmony over personal well-being (Fakih, 2020). Empirical findings from the Pepadun community suggest that the strong customary emphasis on preserving family honor may intensify these expectations, particularly when women experience prolonged marital conflict (Wawancara, 2025). While such expectations are culturally framed as virtues, they may transform into normative pressures that silence women's suffering and discourage disclosure of domestic harm.

Integrating this analysis with *maqāṣid al-syarī'ah* provides an important corrective framework. Islamic legal ethics emphasize the elimination of hardship (*raf' al-ḥaraj*) and the prevention of harm (*daf' al-darar*). From a *maqāṣid* perspective, the preservation of family integrity cannot justify sustained injustice or endangerment of women's dignity and safety. Consequently, any customary practice that imposes disproportionate moral or emotional burdens on women requires critical evaluation, even if it serves broader social objectives (Ramadhania, 2025).

Accordingly, this study proposes that *Mak Dijuk Siang* should be understood as a dynamic customary institution whose legitimacy depends on its capacity to balance communal stability with gender justice. The tradition's protective functions must be accompanied by continuous ethical scrutiny to ensure that mediation processes genuinely address women's experiences rather than merely preserving social harmony. In this sense, the gender perspective does not aim to delegitimize *Mak Dijuk Siang*, but to reposition it within a framework of substantive justice that aligns customary authority with both *maqāṣid al-syarī'ah* and contemporary principles of gender equity.

CONCLUSION

This study shows that the indigenous people of Lampung Pepadun, especially the Ratu Buay Semenguk community in Hanakau Jaya Village, have a strong structured social system and cultural values in maintaining family integrity and social stability. The tradition of *Mak Dijuk Siang* as a prohibition of divorce is not just a ceremonial rule, but a social mechanism that functions to maintain family honor, maintain inter-clan relations, and prevent social disintegration. In a society with strong hereditary ties such as Pepadun, divorce is seen as having a wide and long-term social impact, so that customary regulations function as a moral and social fortress for the sustainability of the community.

In the perspective of Islamic family law, the *Mak Dijuk Siang* tradition finds normative legitimacy through the basic principles of sharia that emphasize the integrity of the household, the gradual resolution of conflicts, and the involvement of the family in the mediation process. The provisions of *islah* and the concept of *hakam* as stipulated in the Qur'an provide space for a collective customary mechanism that prioritizes peace and harmony in the family. Thus, the traditional tradition of Pepadun is in line with the orientation of sharia in placing divorce as the last option, not the first settlement. This shows the harmony between Islamic law and customary law as *living law* that works side by side in people's lives.

Analysis through *maqāṣid al-syarī'ah* Jasser Auda enriches the understanding of how the *Mak Dijuk Siang* tradition functions in maintaining the welfare comprehensively. The prohibition of divorce protects family honor, ensures the sustainability of descendants, and maintains the social order of indigenous peoples. This

tradition not only maintains ancestral values, but also fulfills the principles of sharia in maintaining human dignity and avoiding social damage. Auda's systemic approach places indigenous traditions as an integral part of efforts to achieve the common good, as long as they are continuously evaluated so as not to produce injustices at the individual level, especially for women.

The use of Mansour Fakih's gender justice theory opens up space to see the dynamics of gender relations in traditional traditions. The patrilineal structure of Pepadun and the mediation system controlled by the husband's family have the potential to create an inequality of roles for women. However, the customary context shows that the structure also contains a protection mechanism through the role of *long-term* and interchanger. Gender relations in the Pepadun tradition are not only hierarchical, but have a protective dimension that places women's honor as part of the honor of the extended family. Thus, Fakih's analysis does not lead to the elimination of tradition, but to efforts to transform internally so that customary values can be applied more fairly without eliminating cultural identity.

Overall, this study shows that the *Mak Dijuk Siang tradition* is a traditional practice that has strong social and religious values. The tradition has a clear orientation towards the welfare of the family and society, is in harmony with the principles of Islamic family law, and is relevant in the perspective of *maqāsid al-syarī'ah*. Nevertheless, gender dynamics in this tradition still require attention so that its implementation does not cause injustice. Therefore, the preservation of tradition needs to be carried out in conjunction with *contextual reinterpretation efforts* so that customs are not only an instrument of cultural preservation, but also an instrument of justice and family harmony in the indigenous people of Pepadun.

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