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Mak Di Juk Siang (Prohibition of Divorce) and Family Resilience Politics: A Gendered Study of Living Fiqh Munākahā...

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***Mak Di Juk Siang* (Prohibition of Divorce) and Family Resilience Politics: A Gendered Study of Living *Fiqh Munākahāt* in Lampung's Indigenous Community**

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Abstract:

This study explores the practice of *Mak Di Juk Siang* among the Lampung indigenous community as a mechanism for promoting family resilience, with particular attention to gender perspectives and the application of living *fiqh munākahāt*. *Mak Di Juk Siang* is a customary practice that governs divorce proceedings while reinforcing moral responsibility and honor in marital relationships. The research employs a qualitative approach through ethnographic fieldwork, including in-depth interviews with married couples, customary leaders, and relevant authorities, participatory observation of traditional activities, and analysis of related customary documents. The findings reveal that *Mak Di Juk Siang* serves a dual purpose: it functions as a form of social control over divorce and as a means of fostering gender awareness within the household. The practice highlights the roles of both women and men in maintaining marital harmony and emphasizes the balance between each spouse's rights and responsibilities. It also demonstrates the synergy between local *Piil Pesenggiri* values and the principles of *fiqh munākahāt* in shaping harmonious family relationships. From an academic perspective, this study contributes to a deeper understanding of the interaction between Islamic law, customary practices, and gender dynamics, while illustrating the relevance of living *fiqh* as an adaptive, culturally grounded approach. The findings may also inform the development of family law policies that are sensitive to local customs and promote gender justice in Indonesia.

Keywords: Family Resilience, *Mak Di Juk Siang*, Living *Fiqh munākahāt*, *Piil Pesenggiri*.

Introduction

Domestic resilience is a fundamental issue in the study of Islamic family law, legal sociology, and gender studies, particularly amid rising divorce rates and changing social relations in modern society.¹ In Indonesia, the issue of divorce is not only related to the normative aspects of positive law and *fiqh munākahāt*, but is also strongly influenced by customary values, social structures, and cultural control mechanisms.² In this context, customary practices that maintain household harmony are important arenas for understanding how Islamic law is practiced contextually in daily life (living law), especially among indigenous peoples.³ The indigenous people of Lampung have a distinctive value system and social institutions in regulating family life and husband-wife relationships. One of the traditional practices that still survives today is *Mak Di Juk Siang*, a customary mechanism that regulates the divorce process with a strong emphasis on moral responsibility, family honor, and gender balance. *Mak Di Juk Siang* is not only a procedure for resolving domestic conflicts but also serves as a social instrument to prevent divorce, which is considered to damage the honor of families and indigenous communities.⁴

From the perspective of *munākahāt fiqh*, divorce (*ṭalāq*) is a permissible but highly disliked act (*abghadh al-ḥalāl*), so preventing divorce and maintaining the integrity of the household are important ethical principles.⁵ However, in social practice, the norms of *fiqh* are often formalized and legalistic, without considering socio-cultural dynamics and gender power relations at the local level.⁶ This is where the living *fiqh* approach becomes relevant, because it sees *fiqh* not only as a normative text but also as a social practice lived, negotiated, and adapted in a particular cultural context. *Mak Di Juk Siang* represents the practice of living *fiqh munākahāt* that interacts directly with local customs and values. This practice shows how the *fiqh* principles of husband-and-wife responsibility, deliberation, and justice are carried out through customary mechanisms that have strong social authority. Interestingly, *Mak Di Juk Siang* is not solely oriented toward the interests of men as the head of the family, but also positions women as moral subjects with a strategic role in maintaining household resilience. This makes *Mak Di Juk Siang* an important space to read gender relations in customary-based Islamic family law practice.

¹ Muhammad Iqbal Juliansyahzen, 'Dialektika Hukum Islam Dan Hukum Adat Pada Perkawinan Lelarian Di Lampung Timur', *Al-Ahwal: Jurnal Hukum Keluarga Islam* 12, no. 1 (June 2019): 1–14, <https://doi.org/10.14421/ahwal.2019.12101>.

² Muhamad Zikri Kautsar and Zainudin Hasan, 'Perkawinan Adat Lampung Simbol Kehormatan Dan Identitas Keluarga Di Era Modern', *JURNAL MULTIDISIPLIN ILMU AKADEMIK* 2, no. 6 (November 2025): 64–72, <https://doi.org/10.61722/jmia.v2i6.6921>.

³ Muhamad Zaenal Muttaqin et al., 'Family Harmony in Contemporary Islamic Law: Ibn 'Āshūr's Maqāṣid Perspective on Marital Rights and Duties', *MILRev: Metro Islamic Law Review* 5, no. 1 (January 2026): 61–79, <https://doi.org/10.32332/milrev.v5i1.10480>.

⁴ Idham, Lenny Nadriana, and Lina Maulidiana, 'MARRIAGE OF THE LAMPUNG COMMUNITY (MAK DIJEK SIANG TRADITION FROM THE PERSPECTIVE OF LAW NUMBER 16 OF 2019)', *Progressive Law Review* 7, no. 1 (2025): 63–84, <https://doi.org/10.36448/prolev.v7i1.265>.

⁵ Fathullah, Sayehu, and Nafan Tarihoran, 'Kafa'ah in Contemporary Islamic Marriage: Insights from a Systematic and Meta-Analytical Review', *NUSANTARA: Journal Of Law Studies* 4, no. 01 (July 2025): 60–73, <https://doi.org/10.5281/zenodo.17355035>.

⁶ Wahyu Abdul Jafar et al., 'Gender Justice in the Concept of Iddah: A Contextual Reading of Al-Kasani's Thought for Working Women in Indonesia', *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 12, no. 2 (June 2025): 406–19, <https://doi.org/10.29300/mzn.v12i2.7683>.

However, academic studies on *Mak Di Juk Siang* are still relatively limited and tend to be normatively descriptive. Several previous studies have indeed examined the relationship between Lampung customs and Islamic law, but have not specifically situated *Mak Di Juk Siang* as a practice of living *fiqh munākahāt*, nor have they analyzed it through the perspectives of gender and the politics of domestic resilience. The first research, for example, was conducted by Fathu Sururi (2016), who discussed *Mak Di Juk Siang* in the Lampung Indigenous People of Pepadun Megou Pak.⁷ This research emphasizes that *Mak Di Juk Siang* is one of the traditional practices that remain alive and are firmly rooted among the indigenous people of Lampung Pepadun, especially within the *Megou Pak* kinship structure. In the framework of Pepadun customs, marriage is not solely understood as a personal bond between a man and a woman, but also as a social event that involves the honor of the extended family, the clan, and the customary order as a whole. The second research by Nancy Dela Oktora (2019) examines the role of women in Lampung marriage customs, focusing on symbolism and cultural rites. This study found that the portrait of gender relations in the Ulun Lappung family, as presented in an ethnographic review, shows a division of roles shaped by customary values and honor (*Piil Pesenggiri*), in which men hold positions of public family authority. At the same time, women play an important role in maintaining domestic harmony and household stability. These relationships are complementary but not entirely equal, as the moral burden of maintaining marriage is often greater for women, reflecting the ongoing negotiation between customary harmony and gender justice.⁸ Meanwhile, the third study by Zelfeni Wimra et al. (2025) examined the practice of living *fiqh* in the context of family law in the Minangkabau community.⁹ Although methodologically relevant, this study does not address the Lampung context and does not specifically examine customary mechanisms as a politics of divorce prevention.

Based on the analysis of the previous studies, there is a significant research gap. First, there has been no study that focuses explicitly on *Mak Di Juk Siang* as a living practice of *fiqh munākahāt* that is alive and functions in maintaining household resilience. Second, gender perspectives still receive less attention, even though traditional practices are often an arena for negotiating roles, rights, and responsibilities between men and women. Third, there has been little research that views the customary practice of divorce as a form of social politics aimed at maintaining the stability and honor of indigenous communities. Therefore, this research seeks to fill this gap by analyzing *Mak Di Juk Siang* as a practice of living *fiqh munākahāt* among the indigenous people of Lampung, using a gender perspective as the primary analytical lens. This research not only sees *Mak Di Juk Siang* as a customary mechanism but also as a political arena of household resilience, where religious, customary, and gender relations interact to form a distinctive pattern of husband-wife relationships.

⁷ Fathu Sururi, 'Mak Di Juk Siang Pada Masyarakat Adat Lampung Pepadun Megou Pak', *Al-Hukama': The Indonesian Journal of Islamic Family Law* 6, no. 1 (June 2016): 125–45, <https://doi.org/10.15642/alhukama.2016.6.1.125-145>.

⁸ Nancy Dela Oktora, 'Potret Relasi Gender Pada Keluarga Ulun Lappung (Tinjauan Etnologi)', *SETARA: Jurnal Studi Gender Dan Anak* 1, no. 02 (December 2019): 43–62, <https://doi.org/10.32332/jsga.v1i02.2172>.

⁹ Zelfeni Wimra et al., 'An Interlegality-Based Ethnography Of Living Fiqh In Minangkabau Marriage Practices', *Akademika: Jurnal Pemikiran Islam* 30, no. 2 (November 2025): 175–86, <https://doi.org/10.32332/akademika.v30i2.11259>.

Based on this background, the central question of this research is formulated as follows: How does the practice of *Mak Di Juk Siang* among the indigenous people of Lampung function as a mechanism of household resilience, and how does it reflect gender relations within the framework of living *fiqh munākahāt*? This question is the primary basis for exploring the meaning, function, and social implications of *Mak Di Juk Siang* in the context of Islamic family law and local customs. The significance of this research is theoretical and practical. Theoretically, this research contributes to the study of living *fiqh* by presenting empirical evidence on how *fiqh munākahāt* is adapted to living customary practices. This research also enriches the discourse on Islamic family law by incorporating gender perspectives and local wisdom as important analytical variables. In practice, the findings of this study can serve as a reference for policy formulation in family law, customary institutions, and religious institutions in designing approaches to resolving domestic conflicts that are more context-specific, gender-fair, and in line with local cultural values.

Method

This research uses a qualitative approach with an ethnographic field study design,¹⁰ to examine the practice of *Mak Di Juk Siang* within the indigenous community of Lampung. The ethnographic approach is adopted because the object of inquiry is not merely a formal customary institution, but a living socio-religious practice whose meaning is constructed through interaction, interpretation, and negotiation among community actors. In this context, *Mak Di Juk Siang* is approached as a dynamic arena in which Islamic legal norms, customary values (*Piil Pesenggiri*), and gender relations intersect in everyday practice.

The empirical data for this study were generated through three primary techniques: in-depth interviews, participatory observation, and document analysis. In-depth interviews were conducted with multiple categories of informants who possess direct and contextual knowledge of the practice. These include adat leaders (*penyimbang*), married individuals who have experienced *Mak Di Juk Siang* proceedings, female informants with direct involvement in domestic conflict mediation (including one referred to as *Firma*), as well as community actors such as religious leaders and village-level authorities. The interview data form the core empirical basis of the analysis, particularly in capturing subjective experiences, gendered perceptions, and moral reasoning articulated by participants.

To complement interview data, this study also involved participatory observation of *Mak Di Juk Siang* proceedings as they occur in practice. These observations provide insight into the actual dynamics of deliberation, including the interaction between adat leaders, spouses, and extended family members, as well as the ways in which authority, moral pressure, and gendered expectations are enacted in situ. Observational findings are integrated into the analysis, particularly in identifying patterns such as the distribution of speaking opportunities, the forms of admonition directed at husbands and wives, and the collective framing of domestic conflict as a matter of social responsibility rather than purely individual dispute.

¹⁰ Burhan Bungin, *Analisis Data Penelitian Kualitatif* (Jakarta: PT Raja Grafindo Persada, 2003).

In addition, documentary analysis was conducted to situate the practice within its broader normative and institutional context. The documents examined include customary manuscripts where available, decisions or records of adat institutions, village administrative materials related to family matters, and scholarly literature on *fiqh munākahāt* and living *fiqh*. These sources are used not only as background material but also as interpretive references in understanding how Islamic legal principles are translated into culturally embedded practices.

Data analysis in this study follows a critically interpretive approach. The process begins with inductive reading of interview transcripts and observational notes to identify recurring themes and patterns emerging from the data. These initial findings are then interpreted through two analytical lenses. First, the framework of living *fiqh munākahāt* is used to examine how Islamic legal principles—such as deliberation (*shūrā*), responsibility (*mas'ūliyyah*), justice (*'adl*), and prevention of harm (*dar' al-mafāsīd*)—are substantively enacted within the customary practice, even when not explicitly articulated in formal *fiqh* terminology. Second, gender analysis is applied to explore how roles, responsibilities, and moral expectations are distributed between men and women within the *Mak Di Juk Siang* process, including both its protective and constraining dimensions.

The validity of the findings is ensured through triangulation of data sources and methods. Interview data are cross-checked with observational insights and documentary materials to identify consistencies and divergences. Rather than treating discrepancies as methodological weaknesses, this study interprets them as analytically significant, particularly in understanding the gap between normative claims and lived practice.

Finally, researcher reflexivity is treated as an integral component of the research process. The researcher's position as a Muslim scholar with familiarity in *fiqh munākahāt* facilitated engagement with the normative language used by adat actors, while also requiring critical awareness to avoid over-interpreting the practice as inherently aligned with Islamic legal ideals. At the same time, the researcher's non-membership in the specific adat community studied provided a degree of analytical distance, allowing the practice to be examined not as a taken-for-granted norm but as a contested social space shaped by power relations, cultural values, and gender dynamics.

Result and Discussion

The Practice of *Mak Di Juk Siang* as a Mechanism for Household Resilience

The findings of this study demonstrate that *Mak Di Juk Siang* functions as a preventive social mechanism for household resilience — not merely as a procedural step before divorce, but as a normative arena in which the values of living *fiqh munākahāt* are actively negotiated. This finding aligns with Bowen's (2003) argument that Islamic legal norms in Indonesian communities operate not through formal textual imposition but through culturally embedded social practices that carry their own authority. In the Lampung case, the customary logic of *Piil Pesenggiri* — which frames divorce as a collective social event affecting family honor, not simply a private decision — functions as the cultural medium through which *fiqh* principles of *hifz al-nasl* (preservation of family) and *dar' al-mafāsīd* (prevention of harm) are enacted. The critical analytical

question, therefore, is not whether this mechanism exists, but under what conditions and for whom it produces equitable outcomes.¹¹

In practice, *Mak Di Juk Siang* involves various social actors, ranging from traditional leaders and nuclear and extended families of both parties to village officials and local religious leaders. This collective involvement reflects the people of Lampung's view that the household is not a mere individual institution but part of a broader social structure. The customary deliberations that take place in *Mak Di Juk Siang* are not intended to determine who is legally right or wrong, but to foster mutual awareness of the responsibilities of husband and wife in maintaining family harmony and honor. A traditional leader interviewed explained that *Mak Di Juk Siang* essentially serves as a moral reminder for couples in conflict. He stated:

*"Mak Di Juk Siang did not want to separate people immediately. Precisely there we remind that the household is not only about the feelings of two people, but also about the family relationship. If divorce is arbitrary, not only are the husband and wife embarrassed, but the extended family is also affected."*¹²

This account illustrates a central analytical finding: *Mak Di Juk Siang* exercises what Bourdieu (1990) would recognize as symbolic power — authority that operates through internalized cultural dispositions rather than through legal coercion. Crucially, this power is not gender-neutral. The burden of social shame associated with divorce falls differentially on women in the patrilineal Lampung social structure, a dynamic that this study's data reveal but that the practice itself does not formally address. Thus, while the mechanism's non-coercive character is its institutional strength, it also constitutes a structural ambiguity: the same symbolic pressure that encourages reflection can, in different contexts, function as a barrier to women's legitimate exercise of the right to divorce. Distinguishing between these two effects — the protective and the constraining — is the central analytical task of this section. Field data shows that the *Mak Di Juk Siang* process creates space for deep reflection among married couples. Domestic conflicts that were initially understood as personal problems—such as quarrels, economic problems, or communication issues—are reconstructed in customary forums as social responsibility issues. Couples are invited to look back at their relationship in terms of rights and obligations, not just based on momentary emotions. In many cases, this process leads both parties to reflect and improve their domestic relationship. One of the female informants who had undergone the *Mak Di Juk Siang* process — referred to here as Firma — described the experience as a moment of gender-relational reconfiguration. She said:

*"When we were taken to Mak Di Juk Siang, I felt embarrassed, but that is when I realized. Our problems are not just my husband's business; it has become a family affair. There, my husband was also reprimanded, not just me. Finally, we rethought, the divorce turned out not to be as simple as we imagined."*¹³

Analytically, Firma's account reveals two simultaneous dynamics: the internalization of collective shame (a constraining function), and the public redistribution of moral accountability to include the husband (a corrective function). That both effects can coexist

¹¹ Fathu Sururi, 'Mak Di Juk Siang Pada Masyarakat Adat Lampung Pepadun Megou Pak', *Al-Hukama': The Indonesian Journal of Islamic Family Law* 6, no. 1 (June 2016): 125–45, <https://doi.org/10.15642/alhukama.2016.6.1.125-145>.

¹² Arif, 'Personal Interview', 2025.

¹³ Firma, 'Personal Interview', 2025.

within a single experience underscores the practice's structural ambivalence — it is neither straightforwardly oppressive nor straightforwardly liberatory.

4 This experience shows that *Mak Di Juk Siang* serves not only as a social control but also as a space for dialogue and gender awareness. Women are not placed as the party who is entirely to blame or burdened with the responsibility of taking care of the household. On the other hand, husbands are also expected to be morally responsible, especially regarding maintenance obligations, relationship ethics, and attitudes towards wives. Customary reprimands that are open to husbands are an indication that this practice does not fully reproduce patriarchal relationships that place women as parties who must always give in.

In this context, household resilience is understood more substantively. Resilience is not interpreted as maintaining a marriage under any conditions, but rather as an effort to maintain stability, fairness in relationships, and mutual honor. If, after going through *Mak Di Juk Siang*, divorce is still considered the best option, it is positioned as the last decision to be carried out with dignity and responsibility. The customary mechanism ensures that no party is socially disadvantaged, especially women, who are often in a vulnerable position. This practice also shows how *Mak Di Juk Siang* functions as a form of living *fiqh munākahāt*. *Fiqh* principles such as deliberation (*shūrā*), responsibility (*mas'ūliyyah*), and prevention of *mafsadat* are present substantively in customary practice, although they are not always stated in formal *fiqh* language. These values are translated into the language of the *Piil Pesenggiri* culture, which is easier for the community to understand and accept. In this way, *fiqh* does not appear as a rigid legal norm but as a life ethic integrated with social practices.

Interestingly, *Mak Di Juk Siang* can also be read as part of the politics of household resilience of the indigenous people of Lampung. Through these practices, indigenous communities actively manage the social risks posed by divorce, such as inter-family conflicts, social stigma, and gender inequality. Households are positioned as strategic units in maintaining the sustainability of indigenous communities.¹⁴ Therefore, customary intervention in domestic conflicts is not considered a violation of privacy, but rather a form of collective responsibility. However, this study also found that the effectiveness of *Mak Di Juk Siang* in maintaining household resilience is highly dependent on the social context and quality of the indigenous actors involved. In a community with traditional leaders who are sensitive to gender justice and have a contextual understanding of *fiqh*, *Mak Di Juk Siang* tends to be fairer and reflective. Instead, in a more conservative context, the practice has the potential to be a tool for legitimizing traditional gender norms. These findings confirm that *Mak Di Juk Siang* is not a static practice, but a dynamic negotiation space between customs, religions, and power relations.

***Mak Di Juk Siang* and Gender Relations in the Household**

The gender analysis in this study resists two reductive positions that characterize much of the existing literature on customary law and gender in Indonesia: the position that

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2 ¹⁴ M. Anwar Nawawi and Chalawah Ummy Sa'diyah, 'A Mubādah Based Legal–Cultural Model of Mak Dijuk Siang in the Lampung Pepadun Megou Pak Community for Strengthening Family Resilience in Indonesia', *Journal of Islamic Mubādah*, 27 December 2025, 157–76, <https://doi.org/10.70992/xqrw3986>.

customary institutions are inherently oppressive to women (Merry, 2006),¹⁵ and the counter-position that local practices are straightforwardly protective once freed from state-law bias.¹⁶ The findings from Mak Di Juk Siang support a more complex reading, consistent with Hellum and Derman's (2004) argument that customary institutions are best understood as contested normative arenas in which gender relations are actively negotiated rather than simply reproduced.¹⁷ In the proceedings observed, women were not positioned as passive objects of customary decision-making. However, the degree to which they functioned as recognized moral subjects — with legitimate voices that shaped deliberative outcomes — varied significantly across cases and depended critically on the gender sensitivity of the presiding adat actors.¹⁸

Field findings show that when domestic conflicts are brought into the *Mak Di Juk Siang* forum, the narrative built is not only centered on women's failure to carry out domestic roles, as is often assumed in patriarchal cultures. Instead, customary forums actively dig into the roots of the conflict by questioning the responsibilities of both sides. In this context, women gain space to express their grievances, experiences of injustice, and their hopes for more equal domestic relations. Women's voices are not considered as a form of disobedience, but as part of the process of seeking justice and domestic harmony. One of the traditional leaders interviewed emphasized that in *Mak Di Juk Siang*, women have the same right to speak as men. He stated:

*"If we have entered Mak Di Juk Siang, we hear both. Your wife can also talk. If the husband is wrong, yes, the husband is reprimanded. Custom does not justify a man as he pleases just because he is the head of the household."*¹⁹

This statement shows that *Mak Di Juk Siang* serves as a space for correction against the one-sided interpretation of male leadership in the household. Leadership is not understood as domination, but rather as a moral responsibility that must be carried out fairly. In customary forums, a man's status as a husband does not automatically give him the right to ignore obligations or to mistreat his wife. Furthermore, *Mak Di Juk Siang* emphasized that domestic harmony is a shared responsibility, not a one-sided burden on women. This principle is strongly reflected in the custom's emphasis on the husband's obligations, especially in fulfilling alimony obligations, maintaining communication ethics, and respecting the wife as a life partner. In many of the cases observed, customary forums openly reprimanded husbands who were considered negligent or committed verbal or psychological violence. The reprimand is not purely symbolic but carries social consequences, including embarrassment and demands for attitude change. The experience of a female informant reinforces this finding. She told how the *Mak Di Juk Siang* forum became a space where her position as a wife was recognized and protected:

¹⁵ Sally Engle Merry, 'Transnational Human Rights and Local Activism: Mapping the Middle', *American Anthropologist* 108, no. 1 (2006): 38–51.

¹⁶ Euis Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts* (Amsterdam University Press, 2010).

¹⁷ Anne Hellum and Bill Derman, 'Land Reform and Human Rights in Contemporary Zimbabwe: Balancing Individual and Social Justice Through an Integrated Human Rights Framework', *World Development* 32, no. 10 (October 2004): 1785–805, <https://doi.org/10.1016/j.worlddev.2004.07.001>.

¹⁸ Habib Shulton Asnawi, 'Mental Rehabilitation of Divorce Prohibition Victim Wives Through the Balancing Institution of Megou Pak Customary Pepung and Its Implications Against Household Harmony', *COUNS-EDU: The International Journal of Counseling and Education* 9, no. 1 (March 2024): 15–24, <https://doi.org/10.23916/0020240945810>.

¹⁹ Erlita, 'Personal Interview', 2025.

"When *Mak Di Juk Siang*, I thought I would be the one to blame. However, it turned out that the husband was reprimanded more. Traditional leaders said that men have a great responsibility. If you cannot be fair and provide for your family, do not blame your wife."²⁰

This recognition shows that *Mak Di Juk Siang* has the potential to serve as a corrective measure against gender inequality in the household. Women are no longer positioned as parties who must always restrain themselves for the sake of the household's integrity but are recognized as having the right to receive fair and dignified treatment. In this framework, custom does not serve to legitimize male dominance but instead functions as a moral mechanism to balance power relations in the household.

These limitations require more than acknowledgment — they demand analytical interrogation. In the two proceedings where outcomes were least favorable to women, a consistent pattern emerged: deliberation was framed around the restoration of household stability as a collective good, rather than around the individual rights and safety of the wife. This framing is analytically significant because it reveals how the fiqh principle of *dar' al-mafāsīd* (prevention of harm), when operationalized through the cultural logic of *Piil Pesenggiri*, can shift from protecting the vulnerable party to protecting the institution of marriage itself. In such contexts, the practice does not simply fail to achieve gender justice — it actively produces a normative environment in which a woman's decision to seek divorce is constructed as the source of collective harm, rather than a response to it. This dynamic reflects what Merry (2006) identifies as the translation problem in customary law: when global or religious norms of protection are domesticated into local cultural forms, they may be selectively applied in ways that reinforce, rather than challenge, existing power asymmetries.²¹

These findings confirm that gender relations in *Mak Di Juk Siang* are dynamic and contextual, not static. Customary is not a single entity that always oppresses or liberates women, but rather a negotiation arena shaped by certain actors, values, and social situations. In other words, *Mak Di Juk Siang* is a social space where the tug-of-war between patriarchal norms and the value of gender justice continues to develop. From the perspective of living *fiqh munākahāt*, *Mak Di Juk Siang* shows how the principles of fiqh about justice ('*adl*), responsibility (*mas'ūliyyah*), and deliberation (*shūrā*) are actualized in traditional practice. The relationship between husband and wife is not understood as purely hierarchical, but as a moral partnership that demands a balance of rights and obligations. When this principle is translated into the cultural language of *Piil Pesenggiri*, gender justice is not an abstract concept but a concrete ethical demand that is easy for society to understand.

Mak Di Juk Siang* as a Practice of Living *Fiqh Munākahāt

This subsection develops the central theoretical claim of the article: that *Mak Di Juk Siang* constitutes a practice of living *fiqh munākahāt* in the specific sense theorized by Bowen (2003)²² and extended by Wimra et al (2025). — not as a mere local approximation of normative fiqh, but as a socially legitimate enactment of fiqh's core ethical principles through

²⁰ Laras, 'Personal Interview', 2025.

²¹ Merry, 'Transnational Human Rights and Local Activism'.

²² John R. Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge University Press, 2003).

culturally mediated forms.²³ Three criteria distinguish living *fiqh* from mere customary practice: (a) the normative principles at stake are recognizably derived from, or structurally homologous with, Islamic jurisprudential values; (b) these principles are enacted rather than merely cited — they shape the structure and outcomes of social practice; and (c) their authority is experienced by participants as religiously grounded, not solely customarily so. The data from Mak Di Juk Siang satisfy all three criteria, as the analysis below demonstrates. *Mak Di Juk Siang* shows how the basic principles of *munākahāt fiqh*—such as deliberation (*shūrā*), responsibility (*mas'ūliyyah*), justice (*'adl*), and prevention of harm (*dar' al-mafāsīd*)—are implemented substantively without always using formal *fiqh* terminology. The principle of deliberation, for example, is evident in the process of resolving domestic conflicts involving various parties and prioritizing open dialogue. Deliberation is not interpreted simply as an administrative procedure, but as an ethical space to listen to one another, correct, and find a solution that is most beneficial to all parties.²⁴

In *Mak Di Juk Siang*'s practice, domestic conflicts are not directly directed to legal decisions, such as divorce, but are first brought to customary forums that emphasize reflection and moral responsibility. This process aligns with the spirit of *fiqh munākahāt*, which views marriage as a sacred bond and divorce as the last resort.²⁵ Thus, *Mak Di Juk Siang* serves as a social mechanism that animates the value of *fiqh* regarding prudence and responsibility in decision-making related to family life. A traditional leader who is also known to have a strong religious understanding explained the connection between *Mak Di Juk Siang* and Islamic values as follows:

"We never say this is *fiqh* or not *fiqh*, but what we do at Mak Di Juk Siang is in accordance with Islamic teachings. Deliberation first, find the good, and do not get divorced right away. That is what religion teaches."²⁶

This statement is analytically significant on two levels. Empirically, it confirms that the *fiqh*-alignment of Mak Di Juk Siang is not a post-hoc scholarly attribution but is recognized — albeit in non-technical terms — by practitioners themselves. The elder's formulation ("what we do is in accordance with Islamic teachings") satisfies criterion (c) above: religious authority is experienced as grounding the practice's legitimacy. Theoretically, this confirms Hooker's (1978) observation that in pluralist legal contexts, normative systems interact not through formal citation but through shared moral vocabularies.²⁷ The absence of technical *fiqh* language does not indicate the absence of *fiqh* content; it indicates, rather, the successful translation of *fiqh* into a cultural register that the community finds more immediately accessible and authoritative. It is precisely this

²³ Zelfeni Wimra et al., 'An Interlegality-Based Ethnography Of Living Fiqh In Minangkabau Marriage Practices', *Akademika : Jurnal Pemikiran Islam* 30, no. 2 (November 2025): 175–86, <https://doi.org/10.32332/akademika.v30i2.11259>.

²⁴ Habib Shulton Asnawi et al., 'The Concept of Maṣlaḥah Family in Lampung Customary Law: A Study of Mak Dijuk Siang and Its Relevance to Indonesian Marriage Law', *Fikri : Jurnal Kajian Agama, Sosial Dan Budaya* 9, no. 1 (July 2024): 104–21, <https://doi.org/10.25217/jf.v9i1.4710>.

²⁵ '(PDF) Contestation of Human Rights Values and the Protection of Women within the Mak-Dijuk Siang Tradition', *ResearchGate*, ahead of print, 22 October 2025, <https://doi.org/10.37876/adhki.v7i1.136>.

²⁶ Tabrani, 'Personal Interview', 2025.

²⁷ M. B. Hooker, *Legal Pluralism : An Introduction to Colonial and Neo-Colonial Laws*, with Internet Archive (Oxford : Clarendon Press, 1975), <http://archive.org/details/legalpluralismin0000hook>.

translational capacity that constitutes the distinctive feature of living *fiqh* as a social phenomenon.

Mak Di Juk Siang also serves as an important medium in translating *fiqh* values into the local cultural language of *Piil Pesenggiri*. The concepts of honor (*piil*), family self-esteem, and social responsibility are effective avenues for inculcating the ethics of *fiqh munākahāt*. In this context, the prohibition of arbitrary divorce is not conveyed through textual postulates alone, but through narratives about shame, family honor, and responsibility towards children and communities. This cultural language is easier for society to accept and internalize because it is rooted in their daily social experiences.²⁸ In this way, *fiqh* does not exist as a rigid legal norm and separate from the social context, but as a moral value that lives and shapes behavior. This reinforces the argument that the success of Islamic family law in the local context is primarily determined by its ability to negotiate and dialogue with local cultures.²⁹ *Mak Di Juk Siang* shows that adat is not a competitor of *fiqh*, but a medium that allows *fiqh* to work more effectively and contextually.

Field findings also show that *Mak Di Juk Siang* plays a role in instilling the principle of responsibility (*mas'ūliyyah*) in husband-wife relationships. Husbands and wives are not only held accountable for their actions personally, but also socially, in front of their families and indigenous communities. This mechanism aligns with *fiqh munākahāt*, which emphasizes the husband's moral responsibility as the family's leader and the wife's obligation to maintain domestic harmony. However, these responsibilities are not interpreted hierarchically, but as a division of roles that complement each other. A male informant who had undergone the *Mak Di Juk Siang* process described the experience as a process of "religious reminder" wrapped in customs:

"When I was in *Juk Siang*, I felt like I was being advised by religion, but the way was customary. I was reprimanded for a living, about my attitude towards my wife. It made me realize that getting married is a responsibility, not just a status."³⁰

This experience shows that *Mak Di Juk Siang* not only resolves conflicts but also serves as a means of practically and emotionally internalizing the values of *fiqh munākahāt*. Customary advice conveyed in collective forums has a strong social bonding effect, thereby encouraging changes in attitudes and behaviors, especially among husbands who often hold dominant positions in the household. Furthermore, *Mak Di Juk Siang* also reflects the principle of preventing *mafsadat* in *fiqh*. By postponing or withholding divorce through a deliberative mechanism, this practice seeks to minimize the negative impact of divorce, both for spouses, children, and indigenous communities. Even when divorce is inevitable, *Mak Di Juk Siang* ensures that the process is carried out in a dignified, responsible manner and does not cause further conflicts. This approach is in line with the purpose of *fiqh*: to maintain benefits and prevent social harm.

²⁸ Ami Rizki Purnawan, 'Position of Husband and Wife, Gender Relations, and Legal Pluralism in Customary Marriage in Indonesia: A Study of Jujur and Semanda Marriages in Lampung', *SMART: Journal of Sharia, Traditon, and Modernity*, 31 December 2025, 179–96, <https://doi.org/10.24042/hnkn7654>.

²⁹ Fitri Damayanti, Dewi Kurniawati, and Fatma Merve Prayogo, 'From Tradition to Modernity: The Contemporary Relevance of Islamic Law in Art and Culture', *NUSANTARA: Journal Of Law Studies* 3, no. 1 (July 2024): 14–26, <https://doi.org/10.5281/zenodo.17372790>.

³⁰ Bashri, 'Personal Interview', 2025.

This finding also confirms that living *fiqh* is not synonymous with normative compromises that weaken Islamic principles. On the contrary, *Mak Di Juk Siang* shows how *fiqh* becomes more relevant and functional when actualized through traditional practices that have social legitimacy. Custom, in this case, is not an obstacle to the application of *fiqh*, but a vehicle for the actualization of *fiqh* values oriented towards real benefits. In a broader framework, *Mak Di Juk Siang* also contributes to the formation of contextual Islamic family law awareness. People do not understand family law solely through the text of laws or *fiqh* books, but through social experiences that shape their perceptions of justice, responsibility, and domestic harmony.³¹ Thus, *Mak Di Juk Siang* acts as a bridge between religious norms, customs, and social practices. However, this study also notes that the sustainability of *Mak Di Juk Siang* as a practice of living *fiqh* depends heavily on indigenous peoples' ability to continue adapting to social changes. Challenges such as increasing individualism, changing gender roles, and the influence of state laws can shift customary positions in regulating family life. Therefore, critical reflection and continuous dialogue between customs, *fiqh*, and social reality are the keys to keeping *Mak Di Juk Siang* relevant as a living practice of *fiqh munākahāt* in the future.

The Politics of Household Resilience in Customary Practice

Mak Di Juk Siang, among the indigenous people of Lampung, cannot be understood solely as a prohibition on divorce or as a customary mechanism to postpone divorce. More than that, this practice represents a politics of domestic resilience, a socio-cultural strategy collectively designed to maintain family stability as the primary foundation for the sustainability of indigenous communities. In this context, the household is not only a private relationship between husband and wife but also a strategic social unit with direct implications for the honor of the extended family, the customary order, and the collective identity of the people of Lampung.

Field findings show that *Mak Di Juk Siang* operates on the logic of communal interests, where divorce is seen not only as a failure of personal relationships but also as a social event with the potential to undermine the traditional balance and diminish the family's dignity. Therefore, customary intervention through this mechanism is a preventive effort to ensure that domestic conflicts are resolved internally and with dignity before entering the formal legal space. In practice, *Mak Di Juk Siang* encourages couples to postpone their divorce decision and create space for dialogue facilitated by traditional leaders, extended families, and religious leaders.

The politics of domestic resilience carried out through *Mak Di Juk Siang* is normative and persuasive, not coercive. There are no physical sanctions or formal legal punishments for couples who still choose to divorce, but there is intense moral and symbolic pressure based on the values of *Piil Pesenggiri*. The values of honor (*piil*), social shame, and responsibility towards the extended family are the primary mechanisms for internalizing the norm of domestic resilience. Thus, social control is carried out subtly through cultural mechanisms that have been accepted and legitimized by society.

³¹ Yenny Febrianty et al., 'Legal Reform in Customary Marriage Law in Indonesia and South Africa for Inclusive Justice', *Journal of Law and Legal Reform* 6, no. 3 (July 2025): 1027–242, <https://doi.org/10.15294/jllr.v6i3.20896>.

A traditional leader in East Lampung explained that *Mak Di Juk Siang* was not intended to force couples to stay together in inhumane conditions, but to ensure that divorce was the last resort after all moral and social efforts had been exhausted. He stated:

*"Mak Di Juk Siang does not prohibit divorce absolutely. We want to make sure that momentary emotions do not damage the household. Customary teaches patience, sitting together, and being ashamed of the family if they have not tried to improve." That is why*³²

This statement shows that the politics of domestic resilience in *Mak Di Juk Siang* operates through ethical rationality rather than repressive power. Custom positions itself as a moral buffer, slowing down divorce decisions so they are not taken impulsively, while opening a more expansive space for reconciliation. In this context, household resilience is understood as the result of a sustained social process rather than a forced, static condition.

Furthermore, the practice of *Mak Di Juk Siang* also reflects the typical power relations among indigenous peoples, in which the moral authority of traditional leaders and extended families plays a central role. However, the study's findings show that these power relations do not continuously operate unilaterally. In some cases, women's voices actually gain significant space in the customary deliberation process, especially when domestic conflicts are related to violence, neglect of livelihood, or injustice in gender relations.

A woman who was involved in the *Mak Di Juk Siang* process recounted her experience as follows:

*"At that time, I wanted to separate, but my family asked Mak Di Juk Siang first. There, I can talk openly about what I experience and what I feel. The traditional leader even reprimanded my husband, not me."*³³

This data shows that *Mak Di Juk Siang* is not always a patriarchal instrument that silences women, as is often assumed in criticism of customary practices. On the contrary, in specific contexts, this customary mechanism serves as a mediating space that confers social legitimacy to women's experiences and complaints. In other words, the politics of domestic resilience in *Mak Di Juk Siang* are dynamic and contextual, depending on the indigenous actors involved and their sensitivity to the value of gender justice. From the perspective of legal sociology, *Mak Di Juk Siang* can be understood as a form of non-state regulation that effectively shapes family life. This practice runs in parallel with state law and formal Islamic law, without confronting them in an antagonistic manner. In fact, in many cases, *Mak Di Juk Siang* serves as an initial filter before couples bring a divorce case to the Religious Court. This shows that customs do not negate state laws, but complement and strengthen them through cultural approaches.

An important implication of these findings is the recognition of indigenous peoples' capacity as political actors in family resilience management. The politics of household resilience need not always be interpreted as a top-down state policy; it can also arise from a living, deep-rooted social practice. In Lampung, *Mak Di Juk Siang* is proof that indigenous communities have relatively effective internal mechanisms for maintaining family stability while negotiating religious, customary, and social justice values.

³² Hasan, 'Personal Interview', 2025.

³³ Rani, 'Personal Interview', 2025.

15 The normative ambiguity identified in this study is not incidental but structural. It arises from a fundamental tension within the practice's own logic: *Mak Di Juk Siang* is designed to slow the path to divorce, but Islamic family law — including *fiqh munākahāt* — does not treat marital continuity as an unconditional good. The fiqh principle of *la darar wa la dirar* (no harm shall be inflicted or reciprocated) establishes a clear normative limit: when marriage becomes a site of harm, its dissolution is not merely permissible but may be obligatory. In the cases where *Mak Di Juk Siang*'s deliberative pressure was experienced as coercive — particularly where women in harmful marriages were morally burdened to endure — the practice did not merely fail to protect; it actively reproduced the very mafsadat that fiqh is designed to prevent. This finding has a direct theoretical implication: living *fiqh* is not automatically more protective than formal fiqh simply by virtue of its cultural embeddedness. Cultural mediation can amplify *fiqh*'s ethical commitments, but it can also selectively suppress them. The evaluation of any living fiqh practice must therefore include an assessment of which fiqh principles are translated, which are silenced, and who bears the cost of that selection. Therefore, customary-based household resilience politics requires a critical reading to avoid legitimizing structural injustice, especially against women.

It is in this context that dialogue between customs, *fiqh munākahāt*, and human rights principles becomes crucial. *Mak Di Juk Siang* has excellent potential to be developed as a model of family mediation with gender justice, as long as the principles of benefit, protection of vulnerable parties, and voluntariness remain the primary foundation. The state, in this case, does not need to replace customs but can position itself as a strategic partner through recognition, coaching, and policy frameworks sensitive to local wisdom.

Taken together, the findings from all four subsections of this analysis position *Mak Di Juk Siang* within a broader comparative frame. The practice shares structural features with analogous divorce-prevention mechanisms documented in other Indonesian communities: the sulh-based mediation in Minangkabau studied by Wimra et al. (2025),³⁴ and the adat deliberation forums in Gayo analyzed by Bowen (2003).³⁵ Across these cases, a consistent pattern emerges: customary mediation mechanisms derive their effectiveness from social embeddedness, but their gender implications depend on the normative orientation of the actors who control deliberation. What distinguishes *Mak Di Juk Siang* is the explicit invocation of Piil Pesenggiri honor values as the primary mechanism of moral pressure — a feature that intensifies both its protective potential and its coercive risk relative to the cases above. This comparative observation both extends and complicates the living *fiqh* literature's general optimism about the adaptive capacity of local Islamic legal practice: adaptiveness and equity are not the same thing, and the former does not guarantee the latter.

Conclusion

This study advances a central theoretical argument: Islamic family law achieves its deepest social effectiveness not through formal codification alone, but through substantive embeddedness in culturally legitimate practices. *Mak Di Juk Siang* exemplifies this dynamic. As a living practice of *fiqh munākahāt*, it operationalizes the Islamic normative preference for reconciliation over dissolution — *hifẓ al-nasl, ishlāh, shūrā* — through the culturally authoritative medium of Piil Pesenggiri, generating forms of moral accountability that neither state law nor formal religious institutions have consistently achieved in the same social

1 ³⁴ Wimra et al., 'An Interlegality-Based Ethnography Of Living Fiqh In Minangkabau Marriage Practices', November 2025.

³⁵ Bowen, *Islam, Law, and Equality in Indonesia*.

15 contexts. Crucially, however, this study demonstrates that cultural embeddedness is not sufficient for gender equity. The practice's protective capacity for women is real but contingent — realized only where the adat actors presiding over deliberation are themselves sensitive to the asymmetric gendered consequences of each case. This conditionality is the study's most significant and honest finding, and it constitutes a direct contribution to the living *fiqh* literature's ongoing debate about whether cultural adaptation enhances or dilutes Islamic law's emancipatory potential. The findings also complicate a tendency in the living *fiqh* literature to treat cultural embeddedness as an unqualified good. The data demonstrate that the same cultural medium — Piil Pesenggiri honor values — that enables *fiqh* principles to reach communities in socially meaningful ways can simultaneously suppress other *fiqh* commitments, particularly the principle of *la darar wa la dirar* (no harm shall be inflicted or reciprocated). When Mak Di Juk Siang's deliberative pressure is applied in cases of genuine marital harm, it risks inverting *fiqh*'s own protective logic: rather than preventing *mafsadat*, it may produce it. This finding refines rather than rejects the living *fiqh* framework — cultural mediation is necessary but not sufficient for just application of Islamic family law. What is additionally required are adat actors who read each case's specific gender dynamics and calibrate the practice's normative pressure accordingly.

21 These findings carry concrete implications for three categories of institutional actors. For policymakers and the Ministry of Religious Affairs (Kementerian Agama), the study supports development of a formal recognition framework for adat-based family mediation — one that acknowledges Mak Di Juk Siang as a legitimate pre-litigation mechanism while establishing minimum procedural standards to protect vulnerable parties, particularly women seeking divorce on grounds of marital harm. For Religious Courts (Pengadilan Agama), the findings suggest systematic coordination with adat institutions: judges handling cases that have prior Mak Di Juk Siang proceedings have an empirical basis for assessing whether the customary process was conducted with adequate gender sensitivity, and for calibrating their adjudication accordingly. For customary institutions (lembaga adat) themselves, the most actionable implication is investment in gender-capacity development for penimbang elders — equipping them with integrated knowledge of *fiqh munākahāt* principles, gender justice frameworks, and deliberative skills — so that the practice's protective potential is realized more reliably across diverse marital conflicts. Three specific research directions follow from this study. First, comparative ethnographic research across multiple Lampung adat communities — including both Pepadun and Saibatin systems — and in analogous divorce-prevention mechanisms in other provinces, to determine whether the gender-conditionality finding identified here is a structural feature of this practice type or specific to the communities studied. Second, longitudinal research tracking the outcomes of Mak Di Juk Siang proceedings over time — including rates of marital continuation, post-proceeding conflict, and subsequent divorce filings — to evaluate the practice's effectiveness claims empirically rather than relying solely on retrospective informant accounts. Third, socio-legal research examining the interface between Mak Di Juk Siang and the Religious Court system in Way Kanan and North Lampung Regencies, specifically how judges respond to cases with prior adat proceedings, to illuminate the practical conditions under which the policy implications identified above could be institutionally realized.

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