

## **Bringing Fishermen Together Through the Customary Maritim Law in the South West Aceh Region: al-Shulh Perspective**

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**Abstract:** *Panglima Laot is a customary structure among fishing communities in Aceh province, which is tasked with leading the customary alliance managing Laot customary law. Panglima Laot resolves marine disputes using the principles of harmony, harmony, and appropriateness. Thus, there are three problem formulations in this paper. First, what are the forms of minor criminal offenses that occur in the Marine Area of Susoh Sub-district, Southwest Aceh Regency? Second, how is the process of resolving minor crimes between fishermen in the sea area of Susoh District, Southwest Aceh Regency by Panglima Laot? Third, how is the settlement of minor crimes in the sea area of Susoh District, Southwest Aceh Regency, according to Şulhu? This research is field research and uses a qualitative approach. That is by interviewing the Panglima Laot of Southwest Aceh. The results showed that. First, there are three cases of minor crimes that occurred in the sea of Susoh District, Southwest Aceh Regency, including cases of fighting, cases of bloodshed fights, and cases of fish theft. Second, the process of resolving these minor crimes is carried out by first making a report to the Panglima Laot Teupin, then the Panglima Laot te also makes a report to the Panglima Laot Lhok and the district Panglima Laot, and a customary hearing is made which is attended by members of the Panglima Laot along with village officials and the families concerned then the disputing parties get advice from the Panglima Laot and village officials who are present to make peace, finally giving fines outside the trial. Third, the settlement of minor crimes at sea in Susoh District, Southwest Aceh Regency is in accordance with the concept of al-shulhu, namely settlement by deliberation and fairness.*

**Keywords:** Reconciling, Fishermen, Customary Maritim Law, al-Shulh

**Abstrak:** *Panglima laot* merupakan suatu struktur adat di kalangan masyarakat nelayan di propinsi Aceh, yang bertugas memimpin persekutuan adat pengelola hukum adat *laot*. *Panglima laot* menyelesaikan sengketa kelautan dengan tolak ukur asas keselarasan, kerukunan, dan kepatutan. Sehingga terdapat tiga rumusan masalah dalam penulisan ini. *Pertama*, bagaimana bentuk tindak pidana ringan yang terjadi di Wilayah Laut Kecamatan Susoh Kabupaten Aceh Barat Daya? *Kedua*, bagaimana proses penyelesaian tindak pidana ringan antar nelayan di wilayah laut Kecamatan Susoh Kabupaten Aceh Barat Daya oleh *panglima laot*? *Ketiga*, bagaimana penyelesaian tindak pidana ringan di wilayah Laut Kecamatan Susoh Kabupaten Aceh Barat Daya menurut *Shulhu*? Penelitian ini merupakan penelitian lapangan (*field research*) dan menggunakan pendekatan kualitatif dengan cara mewawancarai *panglima laot* Aceh Barat Daya. Hasil penelitian menunjukkan terdapat tiga kasus tindak pidana ringan yang terjadi di laut Kecamatan Susoh Kabupaten Aceh Barat Daya. *Pertama*, kasus perkelahian, kasus perkelahian pertumpahan darah, dan kasus pencurian ikan. *Kedua*, proses penyelesaian tindak pidana ringan tersebut dilakukan dengan cara pertama pihak yang merasa dirugikan membuat laporan kepada *panglima laot teupin*, kemudian *panglima laot teupin* membuat laporan kepada *panglima laot lhok* dan *panglima laot* kabupaten dan dibuatlah sidang adat yang dihadiri oleh anggota *panglima laot* beserta aparat *gampong* dan keluarga yang bersangkutan kemudian pihak yang bersengketa mendapatkan nasihat dari *panglima laot* dan aparat *gampong* yang hadir agar damai terakhir pemberian denda dilakukan diluar persidangan. *Ketiga*, penyelesaian tindak pidana ringan di laut Kecamatan Susoh Kabupaten Aceh Barat Daya sesuai dengan konsep *al-shulh* yaitu penyelesaian secara musyawarah dan adil.

**Kata Kunci:** *Rekonsiliasi, Nelayan, Hukum Adat Laut, al-Shulhu*

## A. Introduction

Custom is the habit of society, and over time, communities have made this custom into a customary law that should apply to all members of society, accompanied by sanctions, thus becoming customary law. Therefore, customary law is the custom that must be accepted and implemented in the concerned society. Some community members are assigned to oversee the implementation of customary law to prevent deviations or violations. Gradually, these officers become traditional leaders.<sup>1</sup> Customary law is born and maintained by the decisions of the legal community members, especially the decisions of the people's leaders who assist in the implementation of legal acts or in cases of conflicting interests and the decisions

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<sup>1</sup>Yousra Hasona, "Child Soldiers and Restorative Justice in the Arab World Countries," *Internet Journal of Restorative Justice* 9 (2021); Rusjdi Ali Muhammad, "Reconciliation for the Settlement of Criminal Cases: Reactualization of Local Wisdom in Indonesian Criminal Law [Upaya Perdamaian Untuk Penyelesaian Perkara Pidana: Reaktualisasi Kearifan Lokal Dalam Hukum Pidana Indonesia]," *Legitimasi: Jurnal Hukum Pidana Dan Politik Hukum* 10, no. 2 (November 19, 2021): 171; Ratno Lukito, "Islamic Law and Adat Encounter: The Experience of Indonesia," *ProQuest Dissertations and Theses* (1997); Rikardo Simarmata, "The Enforceability of Formalised Customary Land Rights in Indonesia," *Australian Journal of Asian Law* 19, no. 2 (2019).

of judges adjudicating disputes as long as they do not contradict the legal beliefs of the people. By such awareness, they are accepted or tolerated.<sup>2</sup>

The constitution recognizes customary law in Indonesia (Article 18B paragraph 2 of the 1945 Constitution of the Unitary State of the Republic of Indonesia). The explicit recognition by the State gives significant meaning to the continuity of customary law, which has been alive and evolving within the community through generations. The Acehese community regards custom as so important that it is always preserved and protected to prevent it from being lost or faded due to foreign cultures, as expressed in Proverbs (Hadih Maja) "*mate aneuk meupat jirat, mate adat pat tamita*," ("When a child dies, there is a grave, but when a tradition dies, where can it be found?").

In Law Number 11 of 2006 Article 98, paragraph (3) of the Government of Aceh (UUPA). Thirteen customary institutions recognize its virtue, namely:

1. Customary assembly;
2. Imum Mukim (head of Mukim);
3. Imum Chik (The figure of the village);
4. Keuchik (Head of the Village);
5. Tuha Peut (the figur of community);
6. Tuha Lapan (the figur of community);
7. Imeum Meunasah (The figure of religion);
8. Keujreun Blang (Famers);
9. Panglima Laot (Leader of Fishermen);
10. Pawang Glee (Leader of Mountain),
11. Peutua Seuneubok (Leader of Farming);
12. Haria Peukan (the People's Market);
13. Syahbanda. (Leader of port).

The Laot Commander is a customary structure among the fishermen in the province of Aceh, who is responsible for leading the customary association of lawmakers of the Laot. Laot customary law developed based on Islamic Shariah regulates the manner of catching fish in the sea (meupay), establishes the time of catching fish at sea, solves disputes between fishermen, and is the liaison between the fishing man and the ruler.<sup>3</sup> The Laot Commander's Office is located in the maritime

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<sup>2</sup>Hoko Horii, "Pluralistic Legal System, Pluralistic Human Rights?: Teenage Pregnancy, Child Marriage and Legal Institutions in Bali," *Journal of Legal Pluralism and Unofficial Law*, 2019; Rusjdi Ali Muhammad and Dedy Sumardi, *Kearifan Tradisional Lokal: Penyerapan Syariat Islam Dalam Hukum Adat Aceh* (Banda Aceh: Dinas Syariat Islam Aceh, 2011); Ratno Lukito, "The Enigma of National Law in Indonesia: The Supreme Court's Decisions on Gender-Neutral Inheritance," *Journal of Legal Pluralism and Unofficial Law* 38, no. 52 (2006).

<sup>3</sup>Kamaruzzaman Bustamam-Ahmad, "A Study of Panglima La'Ot: An 'Adat Institution in Aceh," *Al-Jami'ah* 55, no. 1 (2017), 155-188; Muhammad Adli Abdullah, Azmi Arifin, and Sulaiman Tripa, "Panglima Laot : His Legacy and Role in Conserving Marine Resources in Aceh, Indonesia ," *SHS Web of Conferences* 45 (2018); Dian Aswita et al., "The Potential Role of Panglima Laôt For Sustainable Marine Ecotourism Development Based on Islamic Culture," *Jurnal Ilmiah Islam Futura* 23, no. 2 (2023).

area and regulates the management of natural resources in the coastal areas of the sea. In addition, the captain of the Laot also preserved the customs of the fishermen's community. In carrying out his functions, the commander of the boat has the duties, inter alia, to maintain and supervise the customs and customs of the law of the sea; to coordinate and oversee any fishing effort at sea; resolve disputes/disputes that arise between fellow fishermen or their group; to arrange and organize maritime customs ceremonies; to keep trees on the coast from being cut off; to be the liaison body between fisherman and government; and to improve the standard of life of coastal fishing.<sup>4</sup>

The position of the laot's commander in the fishing community is very important as an indigenous leader. Without any group leader, reaching the goal would be difficult. The presence of the laot captain as a leader is also an important instrument for the fishing community in achieving well-being. Commander Laot is a customary law enforcement officer; one aspect of customary law is the settlement of disputes of understanding or conflict among fellow fishermen. If the conditions are safe and fair, it will encourage the well-being of the fishermen to make a living in the sea. Or it can be said that the big fisherman will not offend the small fishermen because the marina captain has provided customary corridors to guarantee the rights of the minorities or the small fisherman, such as land pudding, kale jello, and sludge. This role can clearly be explained as stated in Local Regulation Number 7 of 2000 on the maintenance of customary life; Article 1 paragraph (14) states that what is meant by the commander of the last is the person who leads the customs and customs that apply in the field of fishing and settlement of disputes.<sup>5</sup>

The captain of the Laot, as the Indigenous leader of the fishermen's community, will carry out his functions as the Indigenous head so that he has a role in the fishing community. In general, fishermen live in groups, and conflicts between or with other groups, even personal conflicts, cannot be avoided. When interviewing Mr. Hasanudin as the commander of the Southwest Aceh Laot, conflicts or minor criminal acts of fellow fishermen often occur. Among them, three minor crimes occurred in the ICC district of Southwest Aceh. That is fishermen's fighting, bloodshed battles, and fish theft.

In the area of Law, the commander of the Laot district at Susoh district of South West Aceh, the settlement of a minor offense through customary courts with

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<sup>4</sup>Muhammad Nasir, Hasan Basri, and Ferdy Saputra, "CUSTOMARY APPROACH AND RULE OF LAW BY PANGLIMA LAOT IN RESOLVING FISHERMEN'S DISPUTE IN ACEH," *Kanun Jurnal Ilmu Hukum* 24, no. 1 (2022), <https://doi.org/10.24815/kanun.v24i1.26758>; Miratul Ula and Muslem Abdullah, "Penyelesaian Tindak Pidana Ringan Oleh Panglima Laot Ditinjau Menurut Hukum Islam: Studi Kasus Di Kecamatan Mesjid Raya Kabupaten Aceh Besar)," *LEGITIMASI: Jurnal Hukum Pidana Dan Politik Hukum* 10, no. 2 (2021), <https://doi.org/11346>.

<sup>5</sup>Dedy Sumardi, Ratno Lukito, and Moch Nur Ichwan, "Legal Pluralism within the Space of Sharia: Interlegality of Criminal Law Traditions in Aceh, Indonesia," *Samarah* 5, no. 1 (2021): 426-49; A. Rahmah, S. Salmarika, and E. Miswar, "The Role of Panglima Laot towards Fisheries Management Based on Ecosystem Approach in Banda Aceh City," in *IOP Conference Series: Earth and Environmental Science*, vol. 674, 2021.

dismissal. As a small offense is a fight between fishermen in the Susoh District of Southwest Aceh district, the trial through a customary court is dismissed by the Commander of Laot District of West South Aceh and reconciled and given a minor sanction.

In Islamic law, settling a minor offense, such as a dispute, is called Al-Bhulhu. The term connotes peace in the field of property, peace in hostility, peace within the household, and peace between Muslims and non-Muslims. Peace is spoken of among the fishermen and written in the Qur'an Al-Hujurat [49:9]. This is to make a settlement in the place of a dispute and to end the hostility between the two sides.<sup>6</sup>

Laot law is a customary rule guarded and upheld by the fishing community to ensure an orderly system of catching fish and community life on the coast. Laot customary law also supplements positive law, when there are no rules on such matters in national law. A component of Laot customs is the fishermen's community, which has expertise in fishing tools, marine resource management, and the ability to protect the sustainability of natural resources in the wild.

Regarding customary law in Aceh, the living environment is a gift from Allah SWT that has a proper value in the lives of human beings and other living creatures. The existence of a living environment is an integral part of the survival of the living creature itself, including the human being in it, so there is no doubt that the sustainability of the living environment will keep on awakening. Good and proper management of the living environment has been practiced since ancient times and has been ongoing from time to time. In conducting marine environmental management, the customary institutions of the commander of the Laot run with the values and concepts of local wisdom, which to this day remains preserved.<sup>7</sup>

The existence of indigenous maritime law is a normative invention that is alive, applied, and still operated by local citizens. The simplicity of traditional values is becoming important to the country's consideration. Local laws have the potential to change. For many years, the law was established in Article 18 B, paragraph (2) of the Basic Law of the Constitution of the Republic of Indonesia of 1945, which states: "The State recognizes and respects the units of communities of customary law as well as traditional rights as long as they are alive and in accordance with the development of society and the principles of the United States of the Republik of Indonesia regulated by law." sentence indicates that the state feels to have customary laws.

This is what then influences the concept of well-being. As contained in Article 33, paragraph (3) of the Constitution of the Republic of Indonesia, 1945, the land, water, and natural resources contained therein are controlled by the state and used for the welfare of the people. The fisheries resources in Aceh are the most important natural resources for the realization of the well-being of the community. The

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<sup>6</sup>Havis Aravik, "Penyelesaian Sengketa Konsumen Melalui Jalur Al-Shulhu Dan Jawatan Hisbah," *Jurnal Pemikiran Dan Pengembangan Ekonomi Syariah* 1, no. 2 (2016): 34.

<sup>7</sup>Maya Puspita, "Kearifan Lokal Dalam Pengelolaan Sumber Daya Pesisir Lut (Hukum Adat Laot Dan Lembaga Du Nanggroe Aceh Darussalam)," *Kajian Kebudayaan* 3, no. 2 (2017).

beginning of management with an emphasis on the realities of local wisdom that exists in society. Laot customary law in Aceh can be understood as a set of rules that provide guidance and regulation of mutual relations in the process of managing the maritime territory and the resources contained therein, born and embodied as a long-standing process of relations between the society and its environment in the marine and coastal territories.<sup>8</sup>

### **1. The Commander of Laot: Legal Authority**

The Commander of Laot is a leader in the law institutions of customary Laot has the power as a leader of development that has been getting little attention of the government to be involved in the development of the coastal community (related), that is, in supporting the achievement of the advanced and controlled fishermen society. The commander of laot also has the responsibility to defend the law of customary laot, which continues to be carried out as a social precaution in the fishing society.<sup>9</sup>

In Indonesia itself, the existence of an indigenous law society and its traditional rights is recognized by Article 18 B paragraph (2) of the Basic Law (the Constitution) of the Republic of Indonesia of 1945, which reads: "The State recognizes and respects the unity of the Indigenous Law society and their traditional rights as long as they are alive and according to the development of the society and the principles of the State of the Union of the Republik of Indonesia, as regulated by the Law. Article 18 B subsection (2) of the 1945 Constitution recognized the federation of the law of indigent peoples as a cultural identity as well as its traditional right to be respected alongside the evolution of the times and civilization of civilization, as far as it is alive, and in conformity with development of society and principles governed by the law. Although its provisions are partially contained in Article 97 of Law Number 6 of 2014 on Villages (Decree of Villages of 2014), adopted on 15 January 2001, jo. Article 1 paragraph (3) and Article 22 of the Law No. 1 of 2014 concerning the amendment of the law No. 27 of 2007 on the management of coastal areas and small islands. (Law Number 1 of 2007). As regards article 281, paragraph (3) of 1945 Constitution contained in Act No. 39 of 1999 on human rights (hereinafter the Human Rights Act of 1999), regulated in article 6, paragraphs (1) and (2).

The province of Aceh took further steps under Article 18 B para. (1) 1945 Constitution, by establishing Law Number 44 of 1999 on the Maintenance of the Provinces of the Special Areas (hereinafter the Act on Maintaining the Privileges of the Provincial Areas of Special Affairs of 1999). Then, Law Number 18 of 2001 on the Special Autonomy of the Specific Areas in Aceh as the Nanggroe Province of Aceh Darussalam was established, which was repealed by Act No. 11 of 2006 on the

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<sup>8</sup>Setia Budi, "Identifikasi Karakteristik Nelayan Perikanan Tangkap Dan Persepsinya Terhadap Peran Lembaga Hukum Adat Laot Dikota Lhoksmawe (Studi Kasus: Nelayan Perikanan Tangkap Gampong Pusong)," *Acta Aquatic* 2, no. 2 (2015).

Government of Aceh. (The Regulation of Aceh Government, 2006). In Aceh, the consolidation of the management of natural resources on land and at sea, in addition to national laws, is also linked to special laws, Act No. 11 of 2006 on the Government of Aceh, article 162 para. (1) states, "The government of Aceh and the city government have the authority to manage the natural resources that live in the sea."<sup>10</sup>

There is in Law Number 2, paragraph 1, customary institutions serve as a means of the public's participation in the maintenance of government, development, construction of the community, and the resolution of social problems in society. There is a commander of this Laot based on his law as contained in Article 2 paragraph (2) of Kanun No. 10 Year 2008 on the Institution of the Aboriginal, which mentions the institutions of Aceh is: 1. Aceh Orthodox Assembly; 2."Head of Mukim or any other name; 3. Imam Chik or any name; 4. Keuchik or another name; 5. Tuha peut or any Name; 6. Tuha eight or any Other Name; 7. Head of Meunasah or Any Name; 8. Keujun blang or Any other Name; 9. Commander of Laot or Any Other Name, 10. Pawang glee/uteun or any name, 11. Peutua Seuneubok or Any other name, 12. Haria Peukan or other name; 13. Shahbanda or any other name.<sup>11</sup>

The duties, functions, and authority of the Commander of the Laot The Commander has not only the duty to regulate all matters relating to the coast and the sea but also has certain limits in implementing his rules, for example, in terms of the boundaries of the territory of the commander of the lake, which is based on the lake. The lake is a territory occupied by a group of fishermen whom the commanding officer of the sea will later lead. It can also be understood as a bay, lake, shore edge, or tunnel towards the land.

In the Act of Aceh No. 9 of 2008 on the construction of customary life and customs, it was stated that maritime matters were handed over to the captain of the Laot, and the field of settlement of disputes by the law of the customary Laot would refer to the agreement of the commander of the laot. The commander's authority in settling disputes is limited to disputes with no criminal elements and disputes occurring at sea. Customary courts have a system of settling disputes that is different from the formal law; when a dispute arises against criminal elements, it is handed over to law enforcement.

In the exercise of his duties, the commander of the laot has a level of authority. For example, the captain of laot lhok has the responsibility to resolve a dispute at the level of lhok, if the dispute can not be resolved at the levels of lhok, then the settlement is carried out at the district/city level led by the commanding officer of the county/city. Then, when it is still unresolved, it is passed on to the commandant of the province level of the lake. Then the commands of laots lhok carry out their duties in keeping and accompanying the course of the customary law of the sea, regulating the

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<sup>10</sup>Teuku Mansur, Muttaqin, Adli M, and Sulaiman, "Model Penentuan Batas Wilayah Kelola Masyarakat Hukum Adat Laot; Studi Kasus Wilayah Lhok Kuala Cangko, Ulee Lheu," *Geuthee* 3, no. 2 (2020).

<sup>11</sup>"Qanun Aceh No 10 Tahun 2008 Tentang Lembaga Adat," n.d.

form of fishing activities, managing and holding customary ceremonies, carrying out the resolution of disputes between the fishermen in the lake, and being an intermediary between the fishers and the government.

When reviewed from the Local Regulation Number 10 of 2008 Article 28 of the Orthodox Institution mentions the authority of duty, and the functions of the laot commander cover coastal areas to the open sea. Then the territory concerned is as follows:

1. Bineh pasie (offshore);
2. Leun Pukat (area for land drawing);
3. Kuala and teupun (boat landing edge, both in the bay area and in the valley);
4. Laot luah (high seas).

Other areas related to the coastal ecosystems are:

1. Uteun Bangka (baku forest);
2. Uteun pasie;
3. Uteum aron (grizzly forest);
4. Neuhun (lilies);
5. Lancing Sira (salt production).<sup>12</sup>

The management of the marine environment according to the customary law of the sea is handed over to the Laot customary agency, which is headed by an expert in the field of marine management called the laot commander. A marine institution is a group of marine law. As a legal body, it can create and protect the environment and marine biological resources in the maritime territory under its jurisdiction. The power to govern the naval territory is of a symmetrical nature and does not depend on any other power. The powers of the laot captain comprise four (four) areas, namely maritime security, social, federal citizenship, and the conservation of the marine environment.<sup>13</sup>

In essence, the duties of the last captain consist of several things, namely, mining safety at sea, regulating the management of natural resources in the sea, and the management of the marine environment.

In Article 28, paragraph (2) of Decree No. 10 of 2008 concerning the Orthodox Institution, the duties of the Laot Commander differ between the Laot commander of the district/city and the Aceh Laot. Which is as follows:

1. Commander of the Laot Lhok or other name having the duty of

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<sup>12</sup>Nila Trisna, Basri Basri, and Phoenna Ath Thariq, "The Existence of Panglima Laot and Its Function as the Form of Local Wisdom: A Case Study of Meureubo District in Aceh Province, Indonesia," *International Journal of Advances in Social Sciences and Humanities* 1, no. 2 (2022).

<sup>13</sup>Puspita, "Kearifan Lokal Dalam Pengelolaan Sumber Daya Pesisir Lut ( Hukum Adat Laot Dan Lembaga Du Nanggroe Aceh Darussalam)."



- a. Implementing, mining and supervising the implementation of the customs and customary laws of Laot;
  - b. Assisting the Government in the field of maritime and forestry;
  - c. Resolving disputes and disputes that arise between fishermen in accordance with the provisions of customary law;
  - d. Preserving and preserving the environmental functions of the coastal area;
  - e. Struggling to improve the standard of living of the fishing community, and;
  - f. Preventing the occurrence of illegal fishing.
2. Captain of the Laot Cab/City or other name having the duty:
    - a. To perform the duties performed by the commander of the laot lhok which is cross-traffic or another name;
    - b. To resolve the dispute between the commanding officer of Laot Lhok or any other name
3. The Commander of laot Aceh or other names has the duties:
    - a. To perform those duties carried out by the commandant of the laot lhak which is trans-traveling Kab /City;
    - b. Provide advocacy of maritime and fishing policies provide legal assistance to fishermen stranded in other countries, and coordinate the implementation of customary law.

The captain of the laot also has functions as an officer of the customary institutions of laot, among them:

1. Acting as head of the fishing community;
2. Being a liaison between the government and the fisherman community;
3. As a partner of the Government and succeeding in the development of fishing and maritime programmes;
4. Regulate the management of natural resources in the sea;
5. Regulate management of the marine environment;
6. Preserve customary laws
7. Preserve customs and customs;
8. Preserve the customs in the fishing society in Aceh.

The captain has a special skill that is rare to other fishermen, i.e. he can know where the fish are gathered in the sea at a certain time, making it easier for the fisherman to survive and obtain a decent catch, due to several things, among others:

1. the captain of the lake has special skills that are rarely possessed by other fishers, that is, knowing where there are fish gathering in the ocean at a given time, facilitating the fishing man to get a good catch.

2. the captains have a special place in fishing life due to their experience and responsibilities and often become a place for the fishers because of their experience and authority and often become a fishing place.
3. the captain of the sea also serves as a mediator when there is a dispute between the fisher and other issues related to fishing lives and becomes the liaison between the Fisherman and the local government.
4. the capital may represent the government in socializing ending the life of the marine ecosystem, such as coral reefs, as well as violations and the use of poison bombs to obtain fish.<sup>14</sup>

In addition to having a duty to guard the marine environment, the laot captain also has the authority to enforce the sailing restrictions on certain days, it has the purpose of ensuring that the sea is not continuously exploited so that it can safeguard its own marine ecosystem. In the Act of Aceh No. 10 of 2008 Article 28 paragraph (1) of the Orthodox Institution, the Commander of the Laot has several powers, including:

- a. Determining the order of catching fish or fishing, including the outcomes and days of suspension of sailing;
- b. Resolving customary disputes that occur among fishermen;
- c. Resolution of customary disputes that occur between the commander of laot lhok or other names;
- d. Coordinating the implementation of the customary law of the laot, increasing the resources of advocacy of policy in the field of maritime and fishing to improve the well-being of the fisherman.<sup>15</sup>

### **C. The Concept of Islamic Criminal Law and Punishment**

Criminal law is the law that regulates crimes and violations of the public interest, and such acts are threatened with a criminal offense that constitutes a sanction. The nature of this criminal law is to force a prospective criminal to obey and obey it with the threat of a criminal offense that will catch him. As for the type of criminal threat that exists in Indonesia under Article 10 of the Covenant, it is divided into two: the substantive criminal offense consisting of the death penalty, the penalty of imprisonment, the Penalty of prison, and the Penal Penal penalty or the penitentiary penalty. The second is the additional criminal penalty, which consists of the deprivation of certain rights, the seizure of certain goods, and the announcement of the judge's judgment.<sup>16</sup>

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<sup>14</sup>Wahyuddin et al., "THE ROLE OF GOVERNMENT IN ILLEGAL FISHING PREVENTION TO INCREASE FISHERMEN'S ECONOMIC WELFARE IN ACEH PROVINCE," *Jurnal Ilmiah Peuradeun* 7, no. 2 (2019); Siti Rahimi, "Peran Panglima Laot Dalam Penyelesaian Tindak Pidana Illegal Fishing Di Tinjau Menurut Hukum Islam (Studi Kasus Di Perairan Pulo Aceh)," 2017.

<sup>15</sup>"Qanun Aceh No 10 Tahun 2008 Tentang Lembaga Adat."

<sup>16</sup>Dedy Sumardi, "Hudûd Dan HAM: Artikulasi Penggolongan Hudûd Abdullahi Ahmed An-Na'im," *MIQOT: Jurnal Ilmu-Ilmu Keislaman* 35, no. 2 (December 2, 2011), <https://doi.org/10.30821/miqot.v35i2.149>; Muhammad Asif Safdar et al., "Conceptualization of the

A general understanding of the offence itself is difficult to find in the Code of Criminal Law (KUHP), as most of the content of the regulations in the Indonesian Code is Indian-Dutch derivative law. In the Code of Human Rights, mild offences are commonly referred to as types of mild acts, for example, light persecution, light theft, light obscuration, and so on.

However, the elements of minor offences are described in the Book of the Criminal Procedure Law (KUHP) No. 8 of 1981 as the formal guidelines of criminal law of the KUHP. Although such an explanation is not a definition of the minor offence in general according to the Kuhp. (1). A minor offence is an offence which is punishable by imprisonment or prison for a term not exceeding three months, or a fine of up to seven thousand five hundred rupees.<sup>17</sup>

#### *The Concept of al-Shulhu*

The word peace is a masdar form of *shilaha*, *ashlihu*, *shulhan*, which means "qath' al-munadza'ah" or "deciding a dispute or dispute". Mohammad Anwar defined the meaning of *ṣulḥ* (peace) according to the language as a resolution of contradictions. But the word is a covenant to reconcile those who are at odds. In the book of Islamic fiqh, the author Sulaiman Rasyid mentions that peace is a covenant to eliminate vengeance, hostility, or contention. Peace is an agreement between two parties to settle a dispute peacefully and fairly so there is no revenge. It may be understood that to settle a dispute properly, the parties having authority must first understand the terms and conditions of this peace agreement so that the settlement of this dispute proceeds smoothly, can overcome hostilities, and promote peace.<sup>18</sup>

#### **D. Forms of Light Punishment Between Fishermen in Laot District Susoh the South West Aceh Region**

During the three-year period from 2019 to 2021, during the tenure of the commander of the Laot of Southwest Aceh, there were various kinds of minor criminal acts that occurred in the sea of Susoh district of West South Aceh. One example of a mild crime in 2019 was a fishing fight. In the sea of Susoh district of Southwest Aceh, there are rules that the price agreement in the sale of fish should not

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Penology System under Islamic Criminal Law," *Journal of Law & Social Studies* 3, no. 2 (2021), <https://doi.org/10.52279/jlss.03.02.8792>; 'Abd al-Qadir 'Awdah, *Al-Tasyri' Al-Jina'i Al-Islami; Muqaranan Bi Al-Qanun Al-Wadh'i*, II (Kairo: Maktabah al-Taufiqiyah, 2013); Muhammad 'Ata Alsidi Sidahmad, *Islamic Criminal Law: The Hudud* (Malaysia, 1995).

<sup>17</sup>KUHP, "Undang Undang Nomor 1 Tahun 2023 Tentang Kitab Undang Undang Hukum Pidana," no. UU (2023): 1-345.

<sup>18</sup>Sigrid K. Kjær, "'Rahman' before Muhammad: A Pre-History of the First Peace (Sulh) in Islam," *Modern Asian Studies* 56, no. 3 (2022), <https://doi.org/10.1017/S0026749X21000305>; Elena Mitskaya, "Theoretical Thoughts on Legal Regulation of Mediation in Criminal Process in Kazakhstan," *International Journal of Criminal Justice Sciences* 15, no. 1 (2020); Pablo Cortés, "Embedding Alternative Dispute Resolution in the Civil Justice System: A Taxonomy for ADR Referrals and a Digital Pathway to Increase the Uptake of ADR," *Legal Studies* 43, no. 2 (2023).

be too cheap or too expensive, but as the price has been set. A fisherman sells a very low price of fish so that the buyer only buys fish from the fisherman, not from other fishers; after learning the price sold by one fisherman is very cheap, another fisherman becomes angry, and the occurrence of a crash or a mouth battle then the occurrence of a fight. It happened because of the fishermen who had broken the law of the captain of the river.

Then the gampong, along with the captain of laot lhok, captain laot teupin, and Captain the laot of southwest Aceh trialed a bargain and reconciled, then given a fine or a trial money of 1 million rupees to both sides and to the fishermen who sold fish at a low price get additional payments for violation of the rules of the master laot that is about the price of sale of fish.

In addition to the cases mentioned above, there are other cases in 2020 of bloodshed fighting. This is the case between the boy and the fisherman when in the middle of the sea, the agreement for the catch has been determined fairly. Then, when the land has reached the distribution of catches not by the agreed, the boy reduces the catches distributed to fishermen so that the fishers protest and there is a mouth of mouth towards the fight. Because of the fisherman's emotions hitting the boy with the buckle that was near him, the face of the boy bleed.

The fight was then tried and reconciled in the presence of the family members of the two sides, the commander of the laot lhok, the captain of the teupin laot, and the commanding officer of laot. Then each one was given a fine of a million rupees, and for the fisherman who struck the boy until he bleed, there was an additional fine of one goat and a tool. Besides, another case that occurred in the sea of Susoh district of West Aceh South is fish theft. The case of theft of fish begins when the ship that carries fish to the land or to the mouth of the coast one of the fishermen who did not participate in the search for fish took fish and was known by the crew then the ship's crew brought the fisher to the captain of the laot teupin, then the commander of the Laot Teupin informed the commanding officer of laot lhok and the commandant of the Laot which then held a customary trial. In giving a fine to a fisherman who committed a mild offence the theft the Commander of Laot first advised then the Commandant saw the economic condition of the Fisherman when the economic conditions when it was assessed to have sufficient economy then the fine was awarded 1.5 million rupees but when assessed the economy of fishing less capable then only a fine of 5 hundred thousand rupiahs another fine was granted in the form of the return of the goods (the goods) that were stolen.<sup>19</sup>

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<sup>19</sup>Interview with Hasanuddin, *Panglima Laot*, on February 09, 2023, at Susoh, Southwest Aceh, Interview Usman, Public Figure, on February 10, 2023, at Susoh, Southwest Aceh, Interview with Ikram, Fisherman, February 12, 2023, at Susoh, Southwest Aceh,

#### **E. Process of Completion of Light Penalty Acts between Fishermen by the Commander of the Laot of Southwest Aceh Through Laot Acts**

The settlement process carried out by the commander of the West Aceh South Laot was conducted with a dispute called a customary court; this customary trial was carried on to justice, not win, and both sides in the dispute were fined according to their actions. The following is how to solve the minor criminal offenses that occurred in the Lake of Susoh district of West Aceh South.

- a. If a dispute arises between a fisherman, a child, or a ship's crew;
- b. if a party feels injured, it shall report to the captain of the teupin;
- c. if it is necessary, a witness shall be present;
- d. the commander informs the commanding officer of his problems and makes a customary hearing.
- e. the commandant of the laot makes the customary meeting attended by the captain of laot and his members, the gampong apparatus, us and the family concerned, along with witnesses when needed.
- f. the Commander of the Laot allows both sides to express their problems.
- g. the commandant or the fisherman's father/fishermen's community leader advises not to repeat his actions and make a peace agreement.
- h. the negotiations made by the commands of laots to justice without blaming, encroaching the side, and not threatening.
- i. Once both sides agree to peace, closed with submissions by the apparatus present in the trial.
- j. The award of the fine is done outside the trial, which is done by Commander Laot Lhok and Commander Teupin.

In solving a minor offense at sea in the Susoh district of Southwest Aceh district, there is a singularity or difference with the solving of minor offenses in the sea in general. In solving the case of minor crimes at the level of minority, only the commander of the laot is solved but when it is not completed, only compared to the commanding officer of a laot at the district level. However, the settlement of the minority crimes in the sea of the territory of the Susoh district of the West Aceh district is directly solved by the commands of the Laot district. In the settling process, the Commander of laot of West Aceh also mentions that every minority crime that occurs at the sea is not handed over to the police or polsek because as the commandant of laots has great authority and responsibility to judge and reconcile its members but when the concerned does not want to be solved in a customary manner by the captain of the lake then handed down to the responsible party. Every year, the greatest number of small crimes committed in the lake of Susoh district in the southwest of Aceh are fights between fishermen, boats and crew, both on land and at

sea, because of differences of opinion and the distribution of the catch, which is not by the agreement and other acts.<sup>20</sup>

#### **F. Completion of light penalties between fishermen in Laot District Susoh The South West Aceh According to al-Shulhu**

The process of settling disputes or conflicts through peaceful efforts has been conducted by Islam for a long time, even before the Prophet Muhammad SAW became an apostle. The Prophet was once shown to be a steward in the internal dispute of the Quraisy tribe about who is entitled to buy back Hajar Aswad in its original position. Islam, in the days of friends, is also eager to avoid and avoid disputes and settlement of disputes in the best way, which is by using the method of *şulhu* (peace). During the reign of Khulafaurrasyidin, especially when Umar bin Khatab became a caliph, the tradition of settling disputes using the method of *şulhu* was advanced in the practice of social life. It applies not only in terms of family ownership but also in social and political life.<sup>21</sup>

The foundation of the law of al-Shulhu itself is found in Quran al-Hujurat (49) verse 9, which reads:

وَإِنْ طَائِفَتَانِ مِنَ الْمُؤْمِنِينَ اقْتَتَلُوا فَأَصْلِحُوا بَيْنَهُمَا فَإِنْ بَغَتْ إِحْدَاهُمَا عَلَى الْأُخْرَىٰ فَفُتِّلُوا إِلَىٰ تَبْعِي حَتَّىٰ تَفِيءَ إِلَىٰ أَمْرِ اللَّهِ فَإِنْ فَاءَتْ فَأَصْلِحُوا بَيْنَهُمَا بِالْعَدْلِ وَأَقْسِطُوا إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ  
(الحُجُرَات : ٩)

Meaning:

And if two groups of believers are at war, then make peace between them. But if one breaks against another, let him who breaks fight until he turns back to God. If he has turned back, settle between them with justice, and do justice, for God loves those who do righteousness (Q.S Al-Hujurat [49]: 9)

*Wa in thaa-ifataani minal mu'miniinaq tataluu fa ash-lihuu bainahumaa*, If two groups of believers are at war, then make peace between them. When two groups of believers are at war or killed, it is the duty of the Muslims to reconcile the two groups. They will be invited to the law of God, whether it be in the form of a word or a word. A general duty carried out by the government. Whoever calls the two armies of the armies will receive the judgment of Allah. Ibn Abbas (peace be upon him) said: "Two groups of Muslims are in conflict with one another.

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<sup>20</sup>Interview with Sastra Mulyadi, *Panglima Laot*, on February 09, 2023, at Susoh, Southwest Aceh, Interview with Suparmin, Fisherman, on February 11, 2023, at Susoh, Southwest Aceh, Interview with Sukiman, *Fisherman*, on February 13, 2023 at Susoh, Southwest Aceh.

<sup>21</sup>Muhammad, "Reconciliation for the Settlement of Criminal Cases: Reactualization of Local Wisdom in Indonesian Criminal Law [Upaya Perdamaian Untuk Penyelesaian Perkara Pidana: Reaktualisasi Kearifan Lokal Dalam Hukum Pidana Indonesia]."; Hanna Ambaras Khan, Foyasal Khan, and Soura Jit Barua, "Alternative Dispute Resolution and Sustainability of Economic Development for the Consumer's Benefit: An Islamic Moral Economy Perspective," *Asian Journal of Law and Policy* 2, no. 2 (2022), <https://doi.org/10.33093/ajlp.2022.7>; Novyta Uktolseja, "The Existence of Customary Law in Modern Society," *Journal of Law, Policy and Globalization* 93, no. 1 (2020): 1-10.

*Fa im ba-ghat ihdaahumaa 'alal ukh-raa fa qaatilul latii tab-ghii hattaa tafli-a ilaa amrillaahi.* If one of them is wrongful to another, fight against the wrongful, until they return to God's command. If one of the two groups breaches or disrupts peace and then attacks the other group, and there is no reason for it, then it is the duty of the government and the people of Islam to fight against the group that disrupts peace and returns to the Book of God. *Fa in faa-at fa ashlihuu bainahumaa bil 'adli=* If the wrongdoers have returned to the command of Allah, then let them both be reconciled in a fair manner. If they return to peace, then it is our duty to reconcile equally. *Wa agsi-thun innallaaha yuhibbul mugsithiin*, and do the truth. God loves the truth. For God loves those who do righteousness, and He rewards those who do justice.<sup>22</sup>

Based on the Law of Islamic Alliance, settling a problem or dispute can be done in three (3) ways: the first is by peace, the second by arbitration, and the third by judgment. But, in settling a dispute in this study, use the first way, that is, to make peace between the two parties. In the science of fiqh ash- şulḥu this is an agreement made to end the dispute between the parties in dispute using peace, in which in settlement of this dispute no party loses or wins and does not hand over the disputing to a third party.

## G. Conclusion

In the Susoh district of Southwest Aceh, in the course of 3 years from 2019 to 2021, there were at least 3 cases of minor crimes solved by the commander of South West Aceh laot, namely: fighting, bloodshed fight, and fish theft. *First*, the cause of such minor crimes is the failure to obey the rules made by the captain of the laot and misunderstanding between the fishermen. *Secoend*, the settlement of a minor crime that occurred in the lake of Susoh district of West South Aceh; a) There was a quarrel between the fishermen, the boys, or the crew, b) The person who feels hurt makes a report to the commander of the laot teupin, c) Commander Teupin made a report to Commander Lhok, d) The commander of the Laot lhok informed the captain of the laot of his problems and made a customary trial, e) The commander of the barracks shall make an ordinary hearing, to which the commander and his members, the army and the relatives concerned shall be present, and witnesses shall appear, as the case may be, f) The ship's commander gives both sides an opportunity to express their concerns, g) The captain of the Laot or as the fisherman's father/fishermen's leader advises not to repeat his deeds and make a peace agreement, h) A compromise made by the commander of the Laot to justice without blaming and holding sides and without threatening, i) Once both sides agree to peace, closed with submissions by the apparatus present in the trial, j) The award of the fine is done outside the trial, which is done by the commander laot lhok and commander teupin. *Third*, dispute settlement review is an agreement or barrier between the parties to end a dispute or dispute peacefully and fairly so that there is no revenge. The same is true of the

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<sup>22</sup>Hasbi Ash-Shiddiqi, *Tafsir Al-Quran'anul Majid An-Nur* (Semarang: Pustaka Rizki Putra, 2000).

process of settling a mild crime at the sea of Susoh district of Southwest Aceh, which is settled by peaceful and fair settlement so that there is no revenge between the two parties in dispute.

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