



## **Resolving Illegal Fishing in *Rumpon Unjam*: The Strategic Role of Panglima Laot in Aceh's Customary Law**

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**Abstract:** *Illegal fishing is a crime that causes one party to suffer losses. Consequently, fishing activities in Indonesian waters must adhere to the regulations. The purpose of creating a legal regulation is to establish a provision and legal protection to maintain peace within an organization in the event of a conflict. In this instance, the existence of Panglima Laot in carrying out the function of customary law is one of the role models for the order of community life in resolving the issue of unauthorized fishing on Rumpon Unjam or other people's platforms. This research seeks to determine how the mechanism for resolving illegal fishing in Rumpon Unjam is governed by customary law with the function of panglima laot, as well as the review of Islamic law on the mechanism for resolving illegal fishing in Rumpon Unjam under customary law with the function of panglima laot. This research uses field research as its methodology. Among the methods of data collection are observation and interviews. The findings of this study indicate that the mechanism for resolving illegal fishing crimes in Rumpon Unjam, which are resolved by customary law by the Sea commander, is appropriate because the customary law imposed on the perpetrator requires a deterrent effect so that he or she will not repeat the same act by receiving appropriate sanctions for the sake of justice for the victim. According to a review of Islamic law, the mechanism for resolving illegal fishing crimes in Rumpun Unjam people who are resolved by custom by the commander of the laot is by the punishment recommended by the Qur'an because it uses ta'zir law, which is a punishment decision from the regional ruler, and the punishment imposed is appropriate retribution for the actions committed. When viewed from the victim's perspective, the imposed punishment is consistent with Islamic law because it satisfies the victim's sense of justice.*

**Keywords:** Illegal Fishing, Crime, Role, Panglima Laot, Customary Law

**Abstrak:** Tindak Pidana penangkapan ikan ilegal merupakan kejahatan yang menimbulkan kerugian bagi sebelah pihak karena pencurian ikan secara ilegal. Kegiatan penangkapan ikan di wilayah perairan Indonesia tentu harus mengacu kepada aturan. Tujuan diciptakan suatu peraturan hukum dimaksudkan agar terciptanya suatu ketentuan dan perlindungan hukum agar tercipta kedamaian dalam suatu tatanan jika terjadi permasalahan. Keberadaan *Panglima Laot* dalam menjalankan fungsi hukum adat menjadi salah satu panutan terhadap tatanan kehidupan masyarakat untuk menyelesaikan permasalahan penangkapan ikan ilegal di *Rumpon Unjam* tanpa izin. Penelitian ini bertujuan menjelaskan mekanisme penyelesaian tindak pidana penangkapan ikan ilegal di *Rumpon Unjam* secara hukum adat dan untuk mengetahui tinjauan hukum Islam terhadap mekanisme penyelesaian tindak pidana penangkapan ikan ilegal di *Rumpon Unjam* secara hukum adat dengan melihat fungsi *Panglima Laot*. Metode yang digunakan dalam penelitian ini adalah penelitian lapangan. Teknik penumpulan data melalui observasi dan wawancara. Hasil penelitian ini menunjukkan bahwa mekanisme penyelesaian tindak pidana penangkapan ikan ilegal di *Rumpon Unjam* diselesaikan secara adat oleh *Panglima Laot* sesuai hukum adat yang dijatuhkan sanksi kepada pelaku agar tidak mengulangi perbuatannya. Menurut hukum Islam, mekanisme penyelesaian tindak pidana penangkapan ikan ilegal di *Rumpon Unjam* yang diselesaikan secara adat oleh *Panglima Laot* sesuai dengan hukuman yang dianjurkan oleh al-Qur'an menggunakan hukum ta'zir, putusan hukuman dari penguasa daerah adalah pembalasan yang setimpal terhadap perbuatan yang dilakukan memenuhi rasa keadilan terhadap korban. Dalam hal ini korban dan keluarga korban memaafkan perbuatan pelaku.

**Kata Kunci:** Penangkapan Ikan Ilegal, Kejahatan, Peran, *Panglima Laot*, Hukum Adat

## A. Introduction

As an archipelagic country, Indonesia consists of land and sea, as stated in Article 33 Paragraph 3 of the 1945 Constitution, which states that: "Earth and water and the natural resources contained therein are controlled by the state and used as much as possible for prosperity of the people." Thus, Indonesia has natural wealth, whether sea or land.<sup>1</sup>

One form of activity that is against the law in Indonesian regulations is the crime of Illegal Fishing. In maritime legislation, especially regarding the fisheries sector, the category of criminal offenses is divided into "crimes" and "violations". However, there is no term for Illegal fishing in both crimes and violations. This term is contained in the explanation of Article 1 paragraph (5) of Law Number 45 of 2009, the amendment to Law Number 31 of 2004 concerning Fisheries, namely: "activities to obtain fish in

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<sup>1</sup>Ioannis Chapsos and Steve Hamilton, "Illegal Fishing and Fisheries Crime as a Transnational Organized Crime in Indonesia," *Trends in Organized Crime* 22, no. 3 (2019); Yanti Amelia Lewerissa, "Impersonating Fishermen: Illegal Fishing and the Entry of Illegal Immigrants as Transnational Crime," *Journal of Indonesian Legal Studies* 3, no. 2 (2018); Bambang Ali Kusuma et al., "Establishment of Indonesian Maritime Power: Regulation of Transnational Organized Crime on Illegal, Unreported, and Unregulated (IUU) Fishing," *International Journal of Criminal Justice Sciences* 16, no. 2 (2021); Aryuni Yuliantiningsih et al., "From Illegal, Unreported and Unregulated Fishing to Transnational Organised Crime in Fishery from an Indonesian Perspective," in *ASEAN International Law*, 2021.

waters that are not cultivated using any equipment or method, including activities using boats. to load, transport, store, cool, handle, process and/or preserve it”.

In Islamic law, the crime of illegal fishing is a crime that causes harm to one party. Talking about illegal fishing in Islam, maybe this is something new for all of us so far we have known about illegal fishing. This is only in Indonesian positive law, which means that illegal fishing here is fish theft at sea.<sup>2</sup> Even though illegal fishing does not exist in Islam, Islam does not. Even though it's superficial, it's the basics of Islam. Regarding illegal fishing, it can refer to damage to the environment. As explained by Qur'an Surah Ar-Rum verse 41.

ظَهَرَ الْفَسَادُ فِي الْبَرِّ وَالْبَحْرِ بِمَا كَسَبَتْ أَيْدِي النَّاسِ لِيُذِيقَهُمْ بَعْضَ الَّذِي عَمِلُوا لَعَلَّهُمْ يَرْجِعُونَ

Meaning:

There has been visible damage on land and at sea caused by the actions of human hands so Allah will make them feel some of the (consequences of) their actions so that they will return (to the right path).

If you are looking for Fishing in Indonesian territorial waters must of course refer to the applicable laws and regulations. If you do not follow or comply with existing regulations, fishing will be declared a robbery of state assets. The word of Allah SWT in Qur'an Surah An-Nahl verse 14:

وَهُوَ الَّذِي سَخَّرَ الْبَحْرَ لِيَأْكُلُوا مِنْهُ لَحْمًا طَرِيًّا وَتَسْتَخْرِجُوا مِنْهُ حِلْيَةً تَلْبَسُونَهَا وَتَرَى الْفُلْكَ مَوَاجِرَ فِيهِ وَلِتَبْتَغُوا مِنْ فَضْلِهِ وَلِعَلَّكُمْ تَشْكُرُونَ

Meaning:

And it is He, God, who subdues the sea (for you), so that you can eat from it fresh meat (fish), and you take out of the sea the ornaments that you wear, and you see the ark sailing on it, and that you seek (benefit) from His bounty, and that you be grateful.

As a form of expressing our gratitude to Allah, SWT must obey or follow the rules put in place, and all that purpose is for our common good. While Illegal Fishing is a very far-reaching form of crime from the gratitude because Illegal Fishing has wrong applicable rules.

The aim of creating a legal regulation is to create legal provisions and protection to create peace in order if problems arise. One form of legal regulation is the resolution of illegal fishing. In this case, customary law becomes a role model for implementing attitudes/characters of practice in daily life in the social order of group life in a country. The nature of a form and its traditional nuances are not based on an original or

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<sup>2</sup>Ali Yafie, *Merintis Fiqh Lingkungan Hidup* (Jakarta: Ufuk Press, 2006); Wahbah Az-Zuhaili, *Fiqh Islam Wa Adillatuhu*, III (Jakarta: Gema Insani, 2011); Muhaemin Latif et al., "Environmental Theology and Its Relevance to Islamic Law: Perception of Makassar Muslim Scholars, Indonesia," *Samarah* 7, no. 3 (2023).

permanent source of their own cultural customs. Both customs/customs and customary law are a single unit of behavior at the level of community life. Meanwhile, the difference lies in applying sanctions if a violation is committed. Soepomo stated that customary law is an incarnation and feeling of real law for society.<sup>3</sup>

The existence of law has been rooted in every culture of society at every time. This can be seen in the history of legal structures built in human civilization. Law is considered very important because it determines a situation. The existence of law cannot be separated; this basis is the reason for the need for a value from the law that must be created. In the life of the Acehnese people, law and custom are an inseparable unit. This is by what has become the term of the Acehnese people's custom, *ngen law lage alat ngen sifet* (custom and law are the same as substances and nature). This indicates that the people of Aceh are very strong towards customary and non-customary law.<sup>4</sup>

In the implementation of governance in Aceh, as mandated by the Constitution as outlined in the PA Law, in Article 98 Paragraph (3) of Law Number 11 of 2006 concerning Aceh provincial government (UUPA), there are 13 traditional institutions whose existence can be recognized, one of which is the *Panglima Laot* (Traditional Leader of Fishermen) who has authority in matters of Illegal Fishing Crimes in Village customs. Because of this, the people of Aceh prefer to resolve the crime of illegal fishing at *Rumpon Unjam* people illegally because customary law in Aceh is already strong in Acehnese society, based on customary law.

Apart from *Rumpon Unjam*, there are also many environmentally friendly fishing tools, including gill nets (gillnets and entangling nets) which intercept schools of fish, fishing rods (hooks and lines) with or without bait, tools that are dropped or spread (falling gears), rakes ( dredges ) with a serrated wooden or iron frame, circle nets (surrounding nets) that block the direction of fish swimming, lifting nets (lift nets) which are stretched using a frame, as well as grappling and wounding tools such as spears or *ladung*.

*Rumpon Unjam* is very effective in increasing the number of catches by creating a small cultivated environment without damaging the surrounding marine ecosystem. *Rumpon Unjam* is made using basic sea items such as tires, branches, tree twigs, and other items. These items are simultaneously loaded with concrete weights or other

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<sup>3</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); Mujiburrahman and Rachmad Munazir, "Strategi Adat Panglima Laot Dalam Menyelesaikan Konflik (Sengketa) Masyarakat Nelayan Di Kabupaten Pidie Provinsi Aceh," *Jurnal Humaniora* 2, no. 2 (2018): 113; Soepomo, *Chapters on Customary Law* (Jakarta: Prandya Paramita, 1996).

<sup>4</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); Fajri M Kasim and Abidin Nurdin, "Study of Sociological Law on Conflict Resolution Through Adat in Aceh Community According to Islamic Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 4, no. 2 (2020); Rusjdi Ali Muhammad and Dedy Sumardi, *Kearifan Tradisional Lokal: Penyerapan Syariat Islam Dalam Hukum Adat Aceh* (Banda Aceh: Dinas Syariat Islam Aceh, 2011); Soerjono Soekanto, *Masalah Kedudukan Dan Peranan Hukum Adat* (Jakarta: Academica, 1979).

rocks so that the position of the *Rumpon Unjam* cannot be moved freely by sea currents. The use of *Rumpon Unjam* in fishing is inspired by the behavior of fish which like to follow objects floating in the water. But of course, skill and experience in using tools also influence getting a satisfactory catch.

However, the use of *Rumpon Unjam* is illegal and is against the law; therefore, in Aceh, there is a military commander who is given the authority to resolve this problem. Article 28 Qanun (Aceh regional regulation) Number 10 of 2008 concerning traditional institutions *Panglima Laot* has duties, namely;

1. Implement, maintain, and supervise the implementation of *laot* customs and customary laws,
2. Assisting the government in the field of fisheries and maritime affairs,
3. Resolving disputes and disputes that occur between fishermen by the provisions of *laot* customary law,
4. Maintain and preserve the environmental functions of coastal and marine areas,
5. Struggle to improve the standard of living of fishing communities, and
6. Prevent illegal fishing

Illegal fishing cases were encountered, and based on the results of the interviews, several cases occurred. In 2020, the boat belonging to AB, a resident of Aruntunggai village, stole fish from the FAD of MM's brother, a resident of Keude Meukek Village. At that time, AB's boat was caught by MM's brother's boat while MM was taking fish in his FAD. At that time, Brother AB's ship tried to escape but was chased by Brother MM's ship. At that time, Brother AB's ship was taken to the port of Keude Keukek Village and handed over to the sea commander of Keude Meukek Village, Meukek District, South Aceh Regency.

Likewise, in the same year, namely 2020, an incident that was almost the same as the incident above, where DH's brother's boat, a resident of Labuhan Tarok Village, stole fish from AR's brother's FAD, a resident of Keude Meukek Village, at that time DH's brother's boat was caught by the brother's boat. AB had just finished taking fish from AR's FAD. Still, DH's ship did not run away and admitted what he had done, so DH's ship was taken back to the base or port of Keude Meukek Village, then handed over to the sea commander of Keude Meukek Village, Meukek District, Aceh Regency. South. In 2021, almost the same incident occurred again: the US sister ship, which was domiciled in Sawang Bak'U Village, stole fish from FA's sister FAD, which was domiciled in Keude Meukek Village; at that time, the AS sister ship was taking fish from FA's sister FAD. At that time, the US sister ship did not have time to escape because the ship was still taking fish from the FAD, whose fishing nets were still in seawater. The US sister ship was rammed or captured and taken to the port of Keude Meukek Village by the FA sister ship to be handed over to the sea commander of Keude Meukek Village, Meukek District, South Aceh Regency.

Based on the background facts above, the community prefers to resolve the crime of illegal fishing in *Rumpon Unjam* using customary law with the authority of the

Panglima Laot because it uses customary law, which is believed to be more efficient. This is what causes the author to be interested in discussing this problem in a scientific study about the Role of Panglima Laot in Resolving Illegal Fishing in Aceh

The type of research used in preparing this thesis is field research. Field research is research that goes directly into the field where research is carried out to obtain primary data by conducting interviews and observations with village officials who regulate the *Laot* customary law of Keude Meukek Village, such as *Panglima Laot*, legal advisor, *Panglima Laot* treasurer, boat handler, and village community members Keude Meukek.

In preparing this thesis, the author used an empirical Judicial approach. This empirical juridical research consists of the word juridical, which means the law is seen as a norm or *das sollen*. In discussing the problem, this research uses legal materials (both written law and unwritten law or good primary legal materials and secondary legal materials). It also comes from the word empirical, which means the law as a social, cultural reality or *das sein*, because, in this research, primary data obtained from the field was used. So, the empirical juridical approach in this research means that problems are analyzed by combining legal materials. (which is secondary data) with primary data obtained in the field.<sup>5</sup>

Primary data is obtained directly from the object to be studied (respondents). The primary data in the research are several figures related to the Mechanism for resolving the crime of illegal fishing in *Rumpon Unjam* according to customary law with the function of *Panglima Laot* in Keude Meukek Village, Meukek District, South Aceh Regency.

## **B. Mechanism for Resolving Illegal Fishing Crimes in *Rumpon Unjam* Base to *Laot* Customary Law, Meukek District, South Aceh**

Panglima Laot is an institution that regulates the resolution of the crime of illegal fishing in *Rumpon Unjam* according to customary law. This institution is a traditional leader for the Lhok Keude Meukek Village fishing community. Under Panglima Laot, there was another institution called Peutua Teupin, which was appointed to regulate rivers in coastal areas.<sup>6</sup>

The role of Panglima Laot here is, of course, very important in eradicating the perpetrators of Illegal Fishing in other people's *Rumpon Unjam* without permission in Lhok Keude Meukek Village because the *Panglima Laot* institution has more authority in regulating the customary laws of *Laot* and fishing communities in general.

Panglima Laot also plays a role in providing awareness to the public that fish and the ocean are a gift from Allah SWT to be enjoyed by humans in a good way and

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<sup>5</sup>Herry Widyastono, "Metode Penelitian Ilmiah Dan Alamiah," *Jurnal Pendidikan Dan Kebudayaan*, 2007; I Made Pasek Diantha and M S Sh, *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum* (Prenada Media, 2016).

<sup>6</sup>Badruzzaman Ismail, *Ensiklopedia Budaya Adat Aceh* (Banda Aceh: Majelis Adat Aceh, 2018); Christiaan Snouck Hurgronje, *Aceh: Adat Istiadatnya* (Jakarta Indonesia: Indonesian Netherlands for Islamic Studies, 1996); Ali Hasjmy, *Kebudayaan Aceh Dalam Sejarah* (Jakarta: Penerbit Benua, 1983);

not damage the ocean environment. Therefore, the public must be aware of this so that they do not return to fishing by bombing and anesthesia and so that their children, grandchildren, and future generations can enjoy the products of the sea. Panglima Laot, apart from empowering the maritime economy, is also a maritime defense and security officer. To develop this role, Panglima Laot was given the power to implement the rules he made.<sup>7</sup>

The mechanism for resolving the crime of illegal fishing in Rumpon Unjam, according to customary law, was completed by Panglima Laot in the Gampong Keude Meukek area. The resolution depends on the rules made in the Qanun of Laot Keude Meukek Village customary law, which has been approved or approved by the Keude Meukek Village Legal Advisor, including Keuchik, Tuha Peut, and Tgk. Imum Chik Keude Meukek Village. So, in this case, anyone who violates these rules will be punished with the penalties stated in the Qanun Lhok Keude Meukek Village. If the violator does not accept this decision, the violator will be tried and given to the police so that they can be questioned further.

The trial was held on the same day (on the day of the incident) to pay attention and look for the principles of deliberation to create a sense of kinship, then Panglima Laot heard the chronology of events from the perpetrators of the theft in dispute as well as the witnesses who saw the incident. After that, *Panglima Laot* held deliberations with the staff who were also present, *Panglima Laot's* secretary, and traditional leaders.

As is the mechanism in the *Laot* customary law settlement implemented in Lhok Keude Meukek Village, the parties must provide information before the trial panel, starting from the reporter's statement, then the reported party and witnesses who know about the incident. Apart from that, evidence was also presented as material for the panel to consider in making a fair decision. In the basic provisions of the rules of the Aceh *Laot* customary institution, there are two levels of dispute resolution between fishermen according to the *laot* custom, the first, when the dispute resolution decision at the *Panglima Laot* Lhok Keude Meukek Village level is not completed, then the parties can submit it to the *Panglima Laot* District/City (*Panglima Laot* South Aceh). *Laot* customary trials at the Regency level are final and binding. In cases of fishing carried out illegally in the person's Rumpon Unjam, the *Laot* customary trial is only carried out at the Lhok Keude Meukek Village because most of the perpetrators and victims agreed to accept the decision of the Laot Traditional Session Council led by Panglima Laot Lhok Keude Meukek Village.

Problem resolution is carried out by holding customary trials. Commander Laot As the trial leader, he functions as a regulator and leader of the proceedings. What is characteristic of this traditional trial is that it always makes decisions based on the results of agreement and consensus with all components of the trial. If we look further,

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<sup>7</sup>"Conservation Criminology," in *Criminology*, 2021; Scott Edwards, "Fragmentation, Complexity and Cooperation: Understanding Southeast Asia's Maritime Security Governance," *Contemporary Southeast Asia* 44, no. 1 (2022).

in carrying out its duties, the *laot* customary court can take quite harsh decisions, which include several things, namely:

1. Reconcile the parties at trial;
2. Declare acquittal or punish someone who violates customary rules;
3. Imposing sanctions if, based on the assessment of the trial advisor, the person suspected of violating customary rules is found to be guilty, and
4. States which party must do something, pay something, and reimburse something.

In cases of fishing carried out illegally in *Rumpon Unjam* people, the problem is resolved through a customary *laot* trial which presents the perpetrator and victim along with witnesses for deliberation between *Panglima Laot* and the party concerned. What is unique about this traditional *laot* trial is the presence of a trial advisor whose function is almost similar to that of a jury. The trial advisor was appointed by *Panglima Laot* from community leaders or traditional leaders who are considered experts and capable. For example, in cases of illegal fishing, those appointed as experts are experienced handlers.

The sanctions imposed on crew members who commit the crime of illegal fishing at *Rumpon Unjam* judged according to customary law is:

1. Fine Rp. 20,000,000 (twenty million rupiah)
2. The stolen fish was returned to the owner of the *Rumpon Unjam*
3. Pay the penalty for one buffalo
4. Prohibited from going to sea for 2 weeks

In the process of resolving the crime of illegal fishing in *Rumpon Unjam* according to customary law carried out by the Commander of *Laot Keude Meukek Village*, it has become his obligation and domain as the leader of the *Lhok Keude Meukek Village laot* area to regulate regulations relating to violations in *Lhok Keude Meukek Village*. However, it is also necessary to present a traditional shop to act as an advisor in the trial as one who provides enlightenment and input so that a problem can be resolved peacefully so that there is no estrangement between the people of *Lhok Keude Meukek Village* after the incident occurred.

In resolving the violations above, the trial used the principle of deliberation by accepting input and suggestions from the trial participants, followed by the principle of speedy settlement, where the case was resolved on the same day. Furthermore, regarding the sanctions given by *Panglima Laot Lhok Keude Meukek Village*, the sanctions given are in the form of:

1. Fines (paying losses),
2. Make a letter of agreement not to repeat it again
3. Confiscate the catch
4. Confiscation of fishing gear (nets)

From the forms of violations above, implementing the violations carried out in the Lhok Keude Meukek Village area shows that every problem that existed for fishermen between ships was resolved with satisfactory results. Still, several parties in the dispute did not accept the results of the decision from Panglima Laot. However, despite this, Panglima Laot tried to find common ground to resolve the case. When it was not resolved, one of *Panglima Laot's* efforts was to invite several police officers and PSKD heads as mediators to resolve the case and find common ground.

The factors that cause these violations are that fishermen do not have their own *Rumpon Unjam*. There are no fish in the *Rumpon Unjam*. Therefore, fishermen sometimes go to other people's *Rumpon Unjam*, whose owners have already returned to the base or port. Therefore, fishermen have the opportunity to take fish in *Rumpon Unjam*. By monitoring the nearest trawl fleet, we assume it is their *Rumpon Unjam*. The competent authorities present at the case settlement hearing are:

1. Panglima Laot Gampong Keude Meukek
2. Secretary to Panglima Laot keude Meukek
3. Traditional leaders as advisors
4. Toke boat from both parties
5. The boat handler committed the violation
6. Fishermen who saw or reported the incident.

Violations of local customary law can be classified into two forms, namely: violations of the law and violations which, under certain circumstances, are not considered violations. What is meant by acts of violation of *laot* customary law are all acts that are contrary to the *laot* customary law that has been previously determined, "Pawang Husen" stated that the *laot* customary law currently in operation in Lhok Keude Meukek Village is currently by Lhok fishermen because the laws made do not harm other people and are by the sanctions imposed by society. If people commit minor violations, the sanctions are light, and if people commit violations that harm other people, the sanctions will be according to what they have done.

Obeying customary provisions has become the obligation of fishermen, including carrying out decisions taken by the sea commander in adjudicating a case. According to " Dahnil Hidayat" as the handler of the Km Buraq 02 boat and as one of the Fishermen of Keude Meukek Village, he believes that the role of Panglima Laot has been carried out as it should. As usual, several parties do not accept the results of the decision. Still, some received it. So if a rule or sanction is not accepted by the violator, then *Panglima Laot* takes the middle path by summoning the police to decide on the trial.

The community is also obliged to respect and obey customary law because obeying customary law is the same as respecting oneself and the community at large. Azhar, as a representative of the Community of Keude Meukek Village, stated that they are aware of the existence of the *Panglima Laot* Keude Meukek Village institution as one of the institutions that have the authority to regulate existing laws in Keude

Meukek Village so that violations do not occur that could harm the people of Lhok Gampong Keude Meukek. In this case, they understand the rules made by the sea commander to guide society in maintaining order so that things do not happen that are detrimental to other people when going to sea.

### C. Islamic Law Review of the Resolution of Illegal Fishing Crimes in Customary Law by Panglima Laot in Meukek District, South Aceh Regency

Islamic criminal law is a translation of the words *fiqh al-jinayah*. *Fiqh al-Jinayah* is all legal provisions regarding criminal acts or acts committed by *mukallaf* (people who can be burdened with obligations) due to understanding the detailed legal arguments from the al-Qur'an and hadith. The criminal acts referred to are criminal acts that disturb public peace as well as acts against laws and regulations originating from the Qur'an and Hadith.<sup>8</sup>

Islamic criminal law also contains Allah's Shari'a benefit for human life, both in this world and in the afterlife. Islamic law materially contains basic obligations for every human to carry out. Everyone is only an executor obliged to fulfill all God's commands to benefit the world and others.

Islamic law originates from and is part of Islam, al-Qur'an, and Sunnah. As a legal system, Islamic law has its characteristics that differ from those of other laws. Therefore, Islamic law cannot be separated from the Islamic religion, which is the source.<sup>9</sup>

Allah never forbids humans from carrying out *ijtihad*, as long as it does not conflict with the Koran and Hadith, nor with customary law; Allah also never forbids implementing customary law within social life. As long as the customary law does not conflict with Islamic law, customary law can be used as a basis for legal determinations. The people of Lhok Keude Meukek Village resolve cases at sea using the customs of law to resolve cases in society. The people of Keude Meukek Village still maintain and preserve customary law applicable as long as the customary law does not conflict with the principles and objectives of Islamic law itself.

In Islamic law, the resolution of the crime of illegal fishing in *Rumpon Unjam* is included in the category of *jarimah ta'zir* because the elements of *jarimah had* and *qisas diyat* are not fulfilled perfectly or because there are elements that are still considered *syubhat*. *Jarimah ta'zir* is a *jarimah* where the punishment is handed to the judge or ruler.

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<sup>8</sup>Dedy Sumardi et al., "Transition of Civil Law to Public Law: Integration of Modern Punishment Theory in Criminal Apostasy," *Ahkam: Jurnal Ilmu Syariah* 22, no. 1 (June 30, 2022); Muhammad Abu Zahrah, *Al-Jarimah Wa Al-Uqubah Fi Al-Fiqh Al-Islami*, ed. Muhammad Rafiki, V, vol. V (Kairo: Maktabah Tawfiqiyah, 2014); Arab Law, "Methodological Issues in Islamic Jurisprudence Author ( s ): Mohammad Hashim Kamali Published by : Brill Stable URL : <https://www.jstor.org/stable/3381731>" 11, no. 1 (2019): 3-33; 'Abd al-Qadīr 'Awdah, *Al-Tasyri' Al-Jina'iy Al-Islamiy: Muqaranah Bi Al-Qanun Al-Wadh'Iy*, I (Bayrūt: Muassasah al-Risālah, 1997).

<sup>9</sup>Az-Zuhaili, *Fiqh Islam Wa Adillatuhu*; Al-Sayyid Sabiq, *Fiqh Al-Sunnah*, III (Kairo: Dar al-Fath li l'lam al-'Arabi, 1996); Ibnu Qudāmah Al-Muqaddisī, *Al-Kāfi Fī Fiqh Imam Ahmad*, I (Beirut: Dar Al-Kutub Al Ilmiyah, 1994).

In a hadith narrated by Ahmad, al-Tirmidhi, al-Nasa'i, Abu Dawud, and Ibnu Majah from Samurah Ibnu Jundub, it is said: "(a person's) hand bears what he took until he returns it (to its owner)". The meaning of the Hadith is that if a person commits the crime of illegal fishing in another person's fishing grounds, then that person must bear the consequences of what he has done.

From the explanation above, it can be concluded that the resolution of the crime of illegal fishing in *Rumpon Unjam* is based on customary law in Lhok Keude Meukek Village, which was resolved by *Panglima Laot*, namely by maritime customs, namely by peaceful means and paying fines in cash, This customary provision can be viewed from the perspective of *ta'zir* punishment, hence punishment This can be carried out because the punishment of *ta'zir* is the right of the ruler completely or village officials after receiving forgiveness from the family victim.

The punishment for minor crimes against perpetrators of illegal fishing at *Rumpon Unjam* people completed by *Panglima Laot* in Lhok Keude Meukek Village is partly by Islamic law. Still, there are also some differences between the settlements in customary law. The difference lies in the punishment in customary law, namely by peaceful means and paying a fine in the form of Rp. 20,000,000 (twenty million rupiahs), the stolen fish is returned to the owner of the FAD/unjam, pay a fine of one buffalo and is prohibited from going to sea for two weeks. Meanwhile, in Islamic law, the punishment for perpetrators of minor crimes (intentional assault) is *diyat*, namely one hundred camels or buffalo.<sup>10</sup>

In the author's view, based on the results of interviews that the author has conducted regarding the mechanism for resolving the crime of Illegal Fishing at *Rumpon Unjam* people, which was resolved according to custom by *Panglima Laot* in Keude Meukek Village, part of the application of the punishment is by punishment recommended by the Qur'an as in Islamic law punishment what is imposed is appropriate retribution for the actions committed. In this case, the victim and the victim's family also forgive the perpetrator.<sup>11</sup>

From this, if we look at the victim's side, then the punishment imposed is by Islamic law because it fulfills a sense of justice towards the victim even though between customary law and Islamic law there are differences in punishment, the law given uses *ta'zir* law with a sentence decision from the regional authority is in charge.

In the customary law rules, the punishment given is appropriate because the customary law imposed on the perpetrator requires a deterrent effect so that they do not repeat the same act. According to the author, the punishment imposed on the perpetrator is appropriate because customary law prioritizes mediation in resolving

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<sup>10</sup>M. Sholehuddin, *Sistem Sanksi Dalam Hukum Pidana: Ide Dasar Double Track System Dan Implementasinya*, II (Jakarta: Raja Grafindo Persada, 2004); Muhammad Mawardi Djalaluddin et al., "The Implementation of Ta'zīr Punishment as an Educational Reinforcement in Islamic Law," *Samarah* 7, no. 1 (2023).

<sup>11</sup>Interview with Amri, Panglima Laot Meukek, on July 26, 2023 at South Aceh

cases that occur in Keude Meukek Village. After all, the purpose of mediation is to create security, peace, tranquility, and harmony in community life.

#### D. Conclusion

The mechanism for resolving the crime of illegal fishing at *Rumpon Unjam*, which is resolved according to custom by *Panglima Laot*, is reviewed according to customary law. The punishment given is appropriate because the customary law imposed on the perpetrator requires a deterrent effect so they do not repeat the same act by providing sanctions appropriate for justice for the victim. The punishment imposed on the perpetrators is appropriate because customary law prioritizes deliberation in resolving problems so that security, peace, tranquility, and harmony can be achieved in the lives of the people in Lhok Keude Meukek Village.

According to a review of Islamic law, the mechanism for resolving the crime of Illegal Fishing in *Rumpon Unjam* people, which was resolved according to custom by *Panglima Laot* in Keude Meukek Village, part of the application of the punishment is by the punishment recommended by the al-Qur'an is because it uses the law of *ta'zir* which is a punishment decision from the regional authority with punishment what is imposed is appropriate retribution for the actions committed. In this case, the victim and the victim's family also forgive the perpetrator. From this, if we look at the victim's side, the punishment imposed is by Islamic law because it fulfills a sense of justice towards the victim.

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