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## Implementation of the authority of traditional institutions in resolving FAD disputes

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### Abstract

The marine wealth of Aceh Province is abundant, the provincial and district/city governments are to maximize the marine wealth for the interests and welfare of the Acehnese fishing communities. The involvement of the Adat Panglima Laot Institution to maintain, order and enforce the customary law of laot in Aceh Province. The legal basis for the commander of the sea is Article 98, Article 99 and Article 162 Paragraph (2) letter “e” of Law Number 11 of 2006 concerning the Government of Aceh. Regarding fishing using FADs, it is regulated in the Minister of Maritime Affairs and Fisheries Regulation Number 18 of 2021. However, fishermen who do not have permits (illegal) place FADs in the waters of Aceh Province. This study aims to find out and explain how the form of dispute resolution between fishermen by the customary institution of the sea commander, whether the sea commander has the authority to resolve disputes between FADs that do not have permits, and what causes fishermen to place FADs illegally. The research method uses empirical juridical. This scientific research uses the interview method through informants and respondents. Data collection itself by taking notes and recording during interviews, for qualitative analysis of the data itself. The results of the study show that the sea commander has the authority to resolve maritime disputes which are the authority of the sea commander as regulated in Article 18B Paragraphs (1) and (2) and Article 28I Paragraph (3) of the 1945 Constitution in conjunction with Article 98 paragraphs (1), (2), (3) letters i to (4) in conjunction with Article 162 letter e of Law Number 11 Year 2006 Aceh Government and Qanun Number 10 of 2008 concerning Customary Institutions. the sea commander does not have the authority to resolve disputes over fishermen regarding the placement of rumon that do not have a permit because it is regulated in PPMK Number 18 of 2021 regarding the placement of rumpung, and the factors that cause fishermen to place do not have permits due to supervision that is not carried out every day by the government and the absence of socialization regarding the rules for fishing using FADs so far.

**Keywords:** traditional institutions, adat panglima laot, implementation

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### Introduction

Aceh's sea waters, which are between the Malacca Strait and the Indian Ocean, are a great asset as a source of wealth, especially abundant fisheries resources that are very useful in the lives of the Acehnese people. The source of marine wealth can be utilized by every community and local Acehnese fishermen to catch fish based on applicable laws and regulations.

In the context of maintaining fish resources and optimizing fishing efforts by local fishermen, it is necessary to conserve underwater life for the sustainability of Aceh's marine ecosystem. The involvement of the community and fishermen in protecting Aceh's marine areas from damage to marine ecosystems that have an impact on fishing by fishermen needs to be established as a marine commander-in-chief which is a customary institutional structure among the fishing communities of Aceh Province (Sulaiman, 2010).

The existence of a sea commander institution based on the provisions of Law Number 11 of 2006 concerning the Government of Aceh (UUPA) in Article 98, Article 99 and Article 162 Paragraph (2) letter “e”, needs to be further regulated in a concrete manner by the customary institution of the sea commander. Then the formation of Aceh Qanun Number 9 of 2008 concerning the Guidance of Customary Life and Customs, and Aceh Qanun Number 10 of 2008 concerning Traditional Institutions.

The sea commander is tasked with leading the laot customary alliance and implementing the laot customary law, the sea commander consists of the Laot Lhok Panglims, the district / city sea commanders and the Aceh sea commanders as stated in Article 27 Aceh Qanun Number 10 of 2008. Laot customary law is developed based on sharia Islam and regulate fishing procedures in the laot (meupang), determine fishing times at sea, implement customary provisions at sea and manage traditional fishing ceremonies, resolve disputes between fishermen and the government (Wikipedia, 2022). It is necessary to regulate fishing by the sea commander to maintain the underwater ecosystem which has an impact on the survival of fish life.

In fact, fishing in the waters of Aceh, especially the waters of Banda Aceh City, there are still frequent violations in fishing. These violations are in the form of fishing gear for fishermen, placing FADs that do not have a permit (illegal), using hazardous materials and so on that result in damaged marine ecosystems.

Regarding the placement of fishing aids, namely FADs, there are still many FADs belonging to fishermen who do not have a FAD Installation Permit (SIPR) in the waters of Banda Aceh City, indirectly the existence of FADs has an impact on the destruction of marine ecosystems, disruption of sea traffic and disputes between fishermen for taking or catching fish in FADs belonging to other fishermen who do not have SIPR.

The coordinate point data is the placement of FADs that do not have permits installed by local fishermen, the data represents tens and hundreds of other FADs that do not have SIPR in the waters of Aceh Province, including Banda Aceh City. SIPR is a written permit that must be owned by every fisherman (fishing vessel) to install FADs in the sea as regulated in the Minister of Marine Affairs and Fisheries Regulation Number 26 of 2014 concerning FADs.

KP Ministerial Regulation No. 26 of 2014 was later replaced with KP Regulation No. 18 of 2021 concerning Placement of Fishing Equipment and Fishing Aids in the Fisheries Management Area of the Republic of Indonesia and the High Seas and Structuring of Fishing Andon. Fishermen who install FADs at sea must meet the following conditions:

- a. In accordance with the fishing area as stated in SIPI
- b. Does not interfere with the shipping flow
- c. Not installed in Indonesian archipelagic sea lanes
- d. The distance between one FAD and another FAD is not less than 10 (ten) nautical miles
- e. Not installed with fence effect piling (zig zag)
- f. The installed FADs have an identity (SIPR as FAD ownership ID)

Fishermen in Aceh, especially Banda Aceh City, must pay attention to these provisions in placing FADs. Each fisherman may place 3 units of FADs per ship. But what has happened so far is that there are still fishermen who violate the rules and conditions for placing FADs that are not in accordance with the laws and regulations (Serambinews com, 2020).

The problems that occur to local fishermen are. First, the ownership of FADs for fishermen is more than 3 units. Second, it is still found that fishermen place FADs illegally (do not have SIPR). and, Third, disputes between fishermen that occur at sea regarding fishing (Tribunenews. 2020), of the many disputes that have been resolved by the commander of the sea, lhok City of Banda Aceh, one of which is a FAD dispute that does not have a SIPR (illegal).

The results of the illegal FADs were taken by fisherman B while installing the FADs by fisherman A resulted in a fishing dispute in the waters of Banda Aceh City. The matter was brought to justice by the customary institution of the sea commander, lhok, Banda Aceh, which was resolved by the local sea commander. In making decisions/actions, the sea commander coordinates with all the sea commanders who are the rulers of the administrative area.

Panglima Laot has the authority to settle disputes between fishermen as a place for local fishermen to gather. It can be seen the position of the functions, duties and authorities of the marine commander as regulated in Article 28 Paragraph (1) letter "b", Paragraph (2) letter "c" and Paragraph (3) of Qanun Number 10 of 2008 concerning Customary Institutions.

The implementation of the authority of the laot adat institution in resolving FAD disputes in the tribunal of the laot adat institution in making decisions and giving sanctions to fishermen who are in dispute is carried out by deliberation and agreement with the commander of the sea, lhok. Sanctions for fishermen who are proven or caught taking and catching FAD fish belonging to other fishermen are imposed a fine of Rp. 20,000,000, - (twenty million rupiah) and prohibited from going to sea for one week (Tjut Adek, 2022) <sup>[16]</sup>. The sanction is given in an agreement with the commander of the sea, because this is customary law, it is not in the Aceh Qanun and Regency/City Qanun. Therefore, the form of administrative sanctions and prohibitions is not the same between the city of Banda Aceh and the other districts/cities in Aceh.

The problem that occurs in the dispute is that FADs installed by fisherman A do not have a permit (illegal), illegal fishing by fishermen is a crime that harms the country, region and other fishermen. Therefore, it is necessary to look at the settlement of disputes between fishermen A and B who fight for illegal FADs with the authority of the panlima laot lhok customary court as regulated in Aceh Qanun Number 10 of 2008 concerning Customary Institutions or the authority of law enforcement in dispute resolution as regulated in Law Number 31 of 2004 about Fisheries.

Based on the description of the background, the main problem studied in this research is how the form of dispute resolution between fishermen by the customary institution of the sea commander. Does the sea commander have the authority to resolve disputes that occur between fishermen against FADs that do not have permits, and. Factors that cause fishermen to place FADs illegally.

## Research methods

The type of research used to analyze the problem of this research using empirical juridical research, namely field research / direct research, empirical research methods that include research on legal identification (unwritten) and research on legal effectiveness. This study uses primary data sources, namely data obtained from direct research at the source without intermediary from other parties (directly from the object), collected and processed from interviews (Mukhti Fajar and Yulianto Ahmad, 2010) <sup>[6]</sup>. Instruments for collecting interview data are

recordings, videos and direct notes during the interview. And other data analysis is qualitative obtained during research through interviews regarding the problems studied (Suteki and Galang Taufani. 2018) <sup>[10]</sup>.

## Research Results and Discussion

### What is the Form of Dispute Settlement Between Fishermen by the Indigenous Panglima Laot

Based on Article 18B Paragraph (1) of the 1945 Constitution, the existence of the Aceh Province as a special and special region is recognized by the State, this recognition is strengthened by Law Number 44 of 1999 concerning the Implementation of the Privileges of the Special Region Province. Subsequently, Law Number 18 of 2001 concerning Special Autonomy for the Special Region of Aceh was established as the Province of Nanggroe Aceh Darussalam. However, not long after, Law Number 11 of 2006 concerning the Government of Aceh (UUPA) was repealed.

The tradition of fishing communities in Aceh cannot be separated from the influence of laot customary law. Laot customary law is customary law that applies to fishing communities in their respective customary areas, laot customary law is customary law imposed by Aceh fishing communities to maintain order in fishing and the lives of fishing communities (Ayu Wahyuni and T. Muttaqin Mansur, 2020) <sup>[2]</sup>.

Panglima Laot is the traditional leader of the laot. the sea commander in addition to empowering the marine economy is also a marine defense and security officer because he has the authority to keep his sea territory from being looted by fishermen or foreign businessmen. The sea commander is given the power to regulate and determine how to catch fish in the sea and the prohibition on certain days not to go to sea if violating customary sanctions such as commemorating the Aceh Tsunami, and other days that have been regulated by the sea commander.

The Lhok, Regency/City and Provincial Marine Commander Institutions are the traditional heads of the local fishing communities, thus everything that has been regulated by the Marine Commanders becomes customary regulations. The role of the sea commander is very important in regulating fishing in ways that are prohibited in laws and regulations, not only that the sea commander is also a judge of customary courts that occur between fishermen. This is because the existence of the Panglima Laot institution has more authority in regulating the customary law of the laot and the fishing community in general.

Customary law related to penglama laot both at the lhok, district/city and Aceh Province levels in solving problems in deciding problems is required to be fair, wise, wise, honest, and sincere, so far the role played by the sea commander has been going well at the customary court level., leading the fishermen and implementing the existing customary law of laot. All forms of disputes that have occurred between fishermen so far, the commander of the sea, involves elements of law enforcement and the government as well as the Maritime Affairs and Fisheries Service.

Regarding fishing gear that is prohibited by the government, it becomes a reference for the sea commander to discipline fishermen under his leadership not to commit violations. One of them is related to fishing gear with the installation of FADs by fishermen, the marine commander has a role to appeal to fishermen who install FADs to take care of the administration of licensing the installation of FADs.

Aceh Province has a marine customary dispute resolution institution, which is led by the marine commander as a customary judiciary institution that resolves fisherman disputes through deliberation, because the sea commanders institution is a cultural identity for the people of Aceh. His position as the leader of the marine and coastal areas, collects maritime taxes and excise and takes care of security issues at sea, which is regulated by the Customary Law of the Sea in collaboration with the syahbandar and uleebalang (Sri Walny Rahayu, 2014) <sup>[13]</sup>.

The legal basis for the position of the current sea commander is contained in Law Number 11 of 2006 concerning the Government of Aceh, which is further regulated in Aceh Qanun Number 10 of 2008 concerning Customary Institutions and other regulations. The scope of the settlement of customary maritime disputes is civil disputes at sea, minor persecution and light-scale environmental pollution which are resolved through the involvement of the parties by consensus deliberation decisions without going through litigation (Sri Walny Rahayu, 2014) <sup>[13]</sup>.

The sea commander acts as someone who resolves problems if there is a dispute between fishermen within his territory, namely the Province and Regency/City in Aceh. the sea commander as an elder among fishing communities who are more experienced and know about the customary law of laot (Soraya Devy and Siti Rahmi, 2019) <sup>[14]</sup>.

This means that the person who occupies the position as the commander of the sea is a person who has extensive knowledge of customary law of laot, is wise, fair, has the ability to lead and is respected in terms of experience, age, and trust.

Settlement of disputes through the Laot Customary Court with the authority of the sea commander occurs between fishermen catching fish, areas, profit sharing, and other disputes regulated in the UUPA and Qanun of traditional institutions as well as fostering customary life and customs. Meanwhile, disputes that are criminal in nature are regulated in the Fisheries Law and regulations related to fisheries which are the authority of law enforcement. in resolving disputes. The Laot Customary Court has its own procedures that are different from formal law (Teuku Muttaqin Mansur, 2012) <sup>[15]</sup>.

The resolution of problems at the Laot adat court is not the same as the usual courts. However, in its decision in the customary court, it is followed and agreed upon by both parties to the dispute and is binding. So far, the Aceh and District/City KKP Offices have been invited by the marine commander in the customary courts. However,

during the Laot adat court, the KKP Service did not have the authority to decide or draw conclusions because the Laot Commander had the authority to resolve disputes between fishermen, the Acehnese government, namely the KKP Service, only attended and followed the proceedings of the Laot Adat Court.

In this case the fishing dispute by fishermen, FADs installed by fisherman A are taken by fisherman B, causing a dispute between the two fishermen. Cases of FADs that do not have permits can be resolved through the adat laot court and resolved by law enforcement as regulated in the licensing and fisheries legislation.

Fishermen involved in a dispute because fisherman A's FADs were taken by fisherman B below 4 nautical miles lhok Banda Aceh City was resolved at the laot customary court level, because the authority of 4 miles and below was under the authority of the commander of the sea lhok every fisherman asked for permission from the commander of lhok so that everything that happened between fishermen in terms of catching fish and placing FADs do not ask for permission from the commander of the sea, lhok city of Banda Aceh, the settlement is through the laot adat court. Meanwhile, above 4 -12 nautical miles the Aceh Province is the authority of the Government to place FADs by fishermen seeking permission from the Regional Government through the District/City Marine and Fisheries Service and Aceh Province.

Aceh Province as a special autonomous region in its implementation is based on Law Number 11 of 2006 concerning Aceh Government which regulates the order of government authority, one of which is related to the customary institution of the sea commander having certain authority in the maritime sector. So far, the power of the sea commander has been based on the UUPA and Qanun-Qanun on customary institutions. The state respects and recognizes the life of indigenous peoples, one of which is the customary institution of the sea commander because the sea commander controls the sea 4 miles down.

Disputes between fishermen often occur in the form of fishing in the territory of the Lhok commander and catching fish in FADs for other fishermen. Therefore, the importance of the role of the Panglima Laot lhok is to take action in the adat laot court to decide who is at fault. The decision of the sea commander is a legal decision to fishermen that must be implemented.

The figure of a sea commander is usually chosen from people who have high responsibility and self-discipline. The task of the commander in chief is not easy, all forms of disputes at sea up to 70 meters from the shore will be his responsibility. In addition to enforcing fishermen's compliance with customary law, the sea commander also has the responsibility of securing Aceh's marine area from outside fishermen who take fish in the waters of Aceh Province.

This means that the task and function of the sea commander is very large, not only solving the problem between local fishermen, but also the problem of illegal fishing in the FADs sometimes being carried out by fishermen outside Aceh. The practice mode is usually done at night. How to take fish directly in FADs or through the technique of dipanyot. Dipanyot is done by turning on the light above the FAD, the fish will come out because they follow the light, then they are brought to another place outside the FAD area, then caught with a net.

When the act is known and caught by the fishermen, they are taken to the sea commander to hold a customary trial. The sanctions range from a reprimand, confiscation of proceeds, paying a sum of money, detention of vessels for 1-2 weeks, to permanent confiscation of vessels. The ship confiscated by the panglima laot is sunk and may not be used by anyone. If they damage FADs, they are given a fine of up to Rp. 10 million and their catch will be confiscated.

The decision of the panglima laot in the laot customary court is not written because customary law is not written. However, in making this decision, taking into account the results of the deliberation and the wisdom of the sea commander himself, the final decision taken by the sea commander is the end of all these customary courts and all fishermen are obliged to comply with the marine commander's decision.

This authority shows that the recognition of the sea commander as a customary institution and leading the laot customary court is regulated in Article 18B Paragraphs (1) and (2) and Article 28I Paragraph (3) of the 1945 Constitution in conjunction with Law No. the sea is regulated in Article 98 Paragraph (1), (2), (3) letter i to Paragraph (4) in conjunction with Article 162 letter e of Law Number 11 of 2006 concerning the Government of Aceh.

Based on the above rules. The Aceh government has established concretely the authority and existence of a marine commander in chief based on Qanun No. 16 of 2002 concerning the Management of Marine and Fishery Resources. Qanun Number 9 of 2008 concerning the Guidance of Customary Life, Qanun Number 10 of 2008 concerning Customary Institutions, Regulation of the Governor of Aceh Number 60 of 2013 concerning Implementation of Customary and Customary Dispute Resolution/Disputes, Decree of the Governor of Aceh Number 523/315/2000 concerning the Inauguration of the Commander in Chief sea, including also regulated in the Decree of the Governor of the Province of Aceh Number: 523.11/012/2005 dated March 8, 2005 concerning the Duties and Authorities of the Marine Commander.

The form of customary law of the sea which was originally local and regional in nature which was basically unwritten, after several duek pacts (meetings) was successfully inventoried and documented in the form of laws and Aceh Qanuns and district/city Qanuns (Sri Walny Rahayu, 2014) <sup>[13]</sup>. It is necessary to know a little, that the institution of the sea commander has existed from the time of the Aceh kingdom. However, the role of panglima laot in the former kingdom, the role of the sea commander as war troops in Aceh's waters. Now, the role of the sea commander is to protect Aceh's waters from theft of fish, to maintain order for local fishermen, to carry out customary law of laot and to become a place for gatherings and tribunals for local fishermen.

### **Does the sea commander have the authority to settle disputes between fishermen and FADs that do not have permits?**

Settlement of disputes through sea customs is bound by customary laot legal norms based on Islamic teachings. The daily life of the Acehese is inseparable from the norms of the Islamic religion. These norms are then rooted in the lives of local fishermen so that everything laot customary law has Islamic religious values.

The subject of the alliance of the laot indigenous peoples is the fishing community (rechts subjecten) which is the alliance of indigenous peoples (rechts gemeenschappen), bound by common interests in behaving, behaving, and acting in the social life of the community (Sulaiman, 2010). The Panglima Laot institution as a laot adat judicial institution is autonomous. The resolution of disputes between fishermen based on living law is a reflection of the values prevailing in Acehese society.

The object of laot customary law (rechts objecten) is the ocean or the coast, fishing facilities both traditional and modern as well as customary decisions regarding fishing procedures at sea (meupang). The fishing and coastal communities in Aceh as a legal alliance (rechts gemeenschappen) and in their legal association, become members of groups who behave and act as a unit (Sri Walny Rahayu, 2014) <sup>[13]</sup>. the sea commander as an association of fishermen, then the sea commander is chosen by the fishermen as the leader of the traditional institution.

the sea commander as the leader of the fishing group has the authority, duties, and functions as regulated in Article 28 of Aceh Qanun Number 10 of 2008 that the sea commander has the authority to determine, namely:

- a. determine the rules for fishing or fishing, including determining profit sharing and days of abstinence from fishing
- b. resolve customary disputes and disputes that occur among fishermen
- c. resolve customary disputes between sea commanders, lhok or other names, and
- d. coordinating the implementation of customary law of laot, increasing resources and advocating policies in the marine and fisheries sector to improve the welfare of fishermen.

This authority is the responsibility of the sea commander as the head of the customary institution. In addition, the sea commander as a judge decides disputes between fishermen. The responsibility as the commander of the sea is quite large as a leader as well as a judge of customary courts.

Customary courts have an important role in people's daily lives, in principle customary courts prioritize deliberation to prioritize honesty, justice, and accountability. All of the Lhok marine commanders in Banda Aceh City sat together, including the fishermen who had disagreements. The decision of the sea commander is binding on both parties and must be carried out (Sulaiman, 2013).

Aceh Province as a special autonomous region and is still thick with community customs in everyday life. There are various traditional institutions in the community, each of which has its own authority and duties. In addition, there are several powers of customary courts to resolve problems that occur in the community. Article 13 Paragraph (1) Aceh Qanun Number 9 of 2008 concerning Fostering Traditional Life and Customs.

Disputes usually occur because of misunderstandings, taking fish in other fishermen's traps and not complying with customary law prohibitions. Meanwhile, illegal fishing using FADs that do not have a permit and placing FADs outside the provisions of laws and regulations is an administrative violation and a criminal offense under positive law.

FAD is a fishing gear that has been regulated in the Minister of Marine Affairs and Fisheries Regulation (Permen KP) Number 18 of 2021 concerning the Placement of Fishing Equipment and Fishing Aids in the Indonesian State Fisheries Management Area and the High Seas and the Arrangement of Fishing Andon. The Permen KP regulates the ownership of FADs, processing permits and placement of distance FADs as well as procedures for laying FADs.

Based on Article 18 of the Ministerial Decree No. 18 of 2021, it is stated that "Ministers and Governors in accordance with their authority determine the allocation of FADs, the determination of FADs is carried out by the agency that carries out tasks in the field of marine and fishery research, then the results of the study are used as the issuance of SIPR for WPPNRI permanent FADs. in sea waters".

Permen KP is a technical guide in the field and gives authority to regional institutions to be able to regulate licensing and placement of FADs. The purpose of granting permit authority to the regions is one of which has an impact on regional income from fisheries, then the government sees the regional government as having autonomous authority to manage the sea based on statutory regulations (Ayu Wahyuni and T. Muttaqin Mansur, 2020) <sup>[2]</sup>. Local governments better understand the situation and the interests of the community in the field, especially fishermen, all service needs, permits and so on are not easy and resolved quickly.

Based on Permen KP Number 18 of 2021, fishermen who place FADs must have SIPR and the placement of FADs in the State Fisheries Management Area of the Republic of Indonesia (WPPNRI) is carried out with a distance between FADs of at least 10 nautical miles, the placement is in accordance with fishing areas and is not placed in marine conservation area, not placed in Indonesian archipelagic sea lanes, marine biota migration lanes and shipping lanes that disturb sailing ships.

The placement of FADs in the WPPNRI area is the full authority of the central government through the Minister of Marine Affairs and Fisheries to maximize potential and maintain underwater life so that it is not damaged. Because, Permen KP No. 18 regulates FADs thoroughly which then becomes the basis for all regions. However, it is necessary to consider the Aceh Province because of the specifics and privileges provided by the Government.

According to the laot customary law, long before the current regulation was enacted, the rules for fishing areas for small fishermen and fishermen have actually also been regulated in the laot customary law. Fishermen with large boats are prohibited from going to sea within a radius of 4 miles from the shoreline. This distance is taken with the assumption that the coastal area is a spawning fish area based on Article 162 of Law Number 11 of 2006 concerning the Government of Aceh. So if big fishermen catch in this area, it is feared that it will damage the ecosystem and fish breeding development.

This 4-mile radius is under the authority of the district/city sea commander, lhok. Capturing or placing FADs in a 4 mile radius must ask permission from the LHK Marine Commander because this is already a laot customary law. In principle, Qanun Number 7 of 2010 concerning Fisheries has regulated the role of laot adat institutions that are authorized and responsible for the implementation of laot customs and customary law.

In the customary law of laot regarding the management and use of areas in Aceh's waters, it still applies. The government provides space for traditional laot institutions to manage the sea with the provisions of a maximum of 4 miles and below, the management and utilization of fishing under 4 miles is under the authority of the commander of the sea of lhok, fishermen who wish to catch fish in lhok must seek permission from the commander of the sea of lhok.

So far, the Indonesian government respects and values customary institutions. Then, the existence of the customary institution of the sea commander has a legal basis as stated in the UUPA and Aceh Qanun related to customary institutions. Require all parties engaged in aquaculture to have a permit from the provincial government or district/city government.

However, the licensing process is divided into two, namely between small and medium and large businesses in the licensing process. For small businesses, it is enough to register their business activities with the local marine and fisheries service, and the registration is considered a permit.

Licensing for medium and large businesses must have a fishery business license (SIUP) in the field of cultivation, in which the terms and conditions in the issuance of the permit will be further regulated by a governor regulation. In Article 37 of Qanun No 7 of 2010 it is emphasized that every fishing business must have a permit in accordance with their respective sub-sectors, either as a fish catcher or fish carrier (Mario Julyano, 2019).

The government has regulated the requirements for the placement of FADs through Permen KP Number 18 of 2021. But in practice it is not as regulated in the regulations or Permen KP. thus causing action. The act is certainly included in the realm of law enforcement which is handled by law enforcers who have the authority to investigate illegal fishing.

Violations found both in the field and in the administration of boats and fishing gear DKP always coordinate with the respective regional sea commanders for violations committed by fishermen they lead as traditional stakeholders and fishermen associations. This is done to maintain a synergistic relationship between the sea commander and the government, law enforcement and other institutions, if the matter cannot be handled by the sea commander, it will be resolved through the courts.

The LHK Marine Commander does not have the authority to handle the case, the LHK Marine Commander's authority is only limited to disputes between fishermen to prevent criminal acts, and reconcile the two parties. Meanwhile, the case of illegal FADs that do not have a permit is included in the realm of law enforcement carried out by the authorities (Safri Nugraha, 2006) <sup>[11]</sup>.

The settlement of FAD disputes is divided into two, namely by the Laot customary court under 4 miles because FADs that do not have permits have been dealt with firmly through confiscation of FAD fishing gear. Various disputes that occur at sea every day with various reasons for disputes between fishermen, one of which is because fisherman B takes fish from fisherman A's FADs who do not have SIPR from the provincial and district/city governments is a violation, namely illegal FADs not the fishermen's dispute.

These problems are two different things and the solution is also divided into two. First, the fisherman dispute which caused fishermen A and B to cause a commotion was resolved at the laot lhok customary court of Banda Aceh City. Second, fishermen who place FADs without SIPR and fishermen who take fish from FADs are examined by law enforcement (police, DKP, TNI AL) because this has been included in Law No. 45 of 2009 concerning Amendments to Law No. 31 of 2004. about Fisheries.

Based on the provisions of Article 85 of Law 45 of 2009 states that "Everyone who intentionally owns, controls, carries, and/or uses fishing gear and/or fishing aids that interferes with and destroys the sustainability of fish resources on fishing vessels. in the fishery management area of the Republic of Indonesia as referred to in Article 9 shall be punished with imprisonment for a maximum of 5 (five) years and a fine of a maximum of Rp. 2,000,000,000.00 (two billion rupiah)".

### **What are the factors that cause fishermen to place FADs illegally**

The marine resources of Aceh Province have enormous potential, this potential needs to be maintained and monitored. Protecting Aceh's waters and natural resources, the government gives special autonomy authority to Aceh Province to organize its own government, including in the case of establishing Aceh Qanun Number 7 of 2010 concerning Fisheries.

The Fisheries Qanun is a form of the authority of the provincial and district/city governments to maintain and regulate Aceh's marine wealth in a systematic and directed manner, the regional authority to manage the sea area which is 12 miles. The Aceh Government and District/City Governments have 12 miles of authority to maximize

marine resources, both in terms of licensing, setting policies on fishing mechanisms in Aceh and including the authority of the traditional marine commanders to regulate the role or authority of the marine commanders.

The Qanun regulated by the regional government must also not conflict with the above regulations. The Government of Aceh and the District/City through the Department of Marine Affairs and Fisheries compile and create programs to take advantage of the sustainability of fishery resources in Aceh's waters. One of the forms of fisheries utilization is carried out with environmentally friendly fishing gear, as well as in non-destructive ways. One of the fishing gear in question is FADs. The provisions for catching fish through FAD fishing gear have been regulated in Permen KP No. 18 of 2021 which states that everyone who installs FADs in the State Fisheries Management Area of the Republic of Indonesia (WPPNRI) is required to have a FAD Placement Permit (SIPR). FADs that are installed in the sea are the owners of fishermen because they have the name and status of FAD ownership through SIPR. Therefore, fishermen always carry SIPR and SIPI fishing permits while fishing in Aceh waters.

Article 34 and 35 of Aceh Qanun Number 7 of 2010 regulates the placement and use of FADs consisting of basic FADs, shallow water FADs and deep water FADs installed from 4 nautical miles to 12 nautical miles. The installation of FADs by fishermen today must have a permit issued by the Aceh and Regency/City Governments. The development of the sea today needs to be balanced with legal developments as well as to regulate administrative order and so on, Qanun Number 7 of 2010 needs to be amended to regulate today's problems in the fishing Qanun and other problems. direct orders of the fishing Qanun (Kadir. 2022).

The community factor, in this case the local fishermen installing FADs without a permit (illegal) is due to several reasons that fishermen place FADs without a permit, namely First, there is no supervision carried out by the Marine and Fisheries Service of Banda Aceh City or Province and law enforcement so that many fishermen place FADs do not have a permit. Both services for managing fishing permits and sailing permits are very difficult and take a long time, because fishermen must apply for permits not in one place, they have to go to other offices to take care of it. be a factor that fishermen go to sea without getting permits,

Regarding fishermen who do not know the laws and regulations regarding the licensing of FAD fishing gear and others related to fisheries, we need to know that the State of Indonesia, including the Provinces and Regencies/Cities in Aceh, is a state of law. The government regulates and stipulates FAD fishing gear or others to provide security, order and legal certainty for fishermen.

Various laws and regulations and other technical regulations that have been ratified by the government where everyone knows and is obliged to implement them because Indonesia recognizes legal fiction, namely the principle that considers everyone legal (*presumptio iures de iure*). Everyone is considered to know the law, including fishermen who have not graduated from elementary school, or residents who live in remote areas. This means that ignorance of the law cannot be forgiven, one cannot escape from legal bondage by arguing that they do not know or do not know of certain laws and regulations (Hukumonline. 2022).

Indeed, legal fiction brings its own consequences to the government. Every law enforcer and government is obliged to convey the existence of certain laws or regulations to the public. If there are fishermen who are not sensitive to the law, they can be brought to court even though the fishermen really do not know the law. On the one hand, there is a responsibility to the government as the organizer of the government to conduct socialization of the laws and regulations that have been passed.

The problem of fishermen not knowing the regulations for FAD fishing gear is not an excuse, because once the regulations are passed by the executive and legislature, it is assumed that everyone knows the regulations. The existence of the principle of legal fiction has been codified and explained in Article 81 of Law Number 12 of 2011 concerning Legislation, namely "With the promulgation of the Legislation in the official sheet as referred to in this provision, everyone is deemed to have known it".

The official sheets referred to in the provisions of Article 81 consist of 7 types, namely: a). State Gazette of the Republic of Indonesia, b). Supplement to the State Gazette of the Republic of Indonesia, c). State Gazette of the Republic of Indonesia, d). Supplement to the State Gazette of the Republic of Indonesia, e). Regional Gazette, f). Additional Regional Gazette, or g). Regional News.

Efforts that need to be made at this time are data collection on the number of FADs that are still active. This is important as a basis for monitoring and surveying the number and distribution of FADs in the waters of Banda Aceh City, as well as determining the optimal number of FADs that can be installed and the distance between one FAD and other FADs in an area of Banda Aceh City waters. The FAD management policy from the Aceh government through the Provincial and City District DKP should produce a solution so that fishery production in the sea area of Banda Aceh City is maintained for future generations.

So far, it is known that the government has not been maximal in conducting direct socialization to fishermen and providing information to the marine commander on regulations due to changes or revocations that regulate new provisions so that fishermen do not know that their actions are violations.

In principle, technological developments can actually be used to open public access to the law. The digitization of legislation is one alternative that can continue to be developed by both government agencies and traditional marine commanders by utilizing the current digitalization to obtain information on legal developments regarding fisheries.

## Conclusion

The problem of fishermen catching fish using FAD fishing gear which is placed outside the authority of the marine commander is the authority of law enforcement as regulated in the Minister of Maritime Affairs and Fisheries Regulation Number 18 of 2020 regulating FADs can be punished by Article 85 of Law Number 45 of 2009 concerning Amendments Based on Law Number 31 of 2004 concerning Fisheries, based on this rule, fishermen who do not have a permit to install FADs in the sea are illegal fishing, and. Factors that cause fishermen to place FADs without permits in general are because they are not aware of regulations regarding FADs and administratively managing FAD fishing gear permits, in addition, these factors are because the licensing service is difficult and takes a long time,

### References

1. Ateng Syafrudin. Towards a Clean and Responsible State Administration, Pro Justisia Journal Edition IV. Parahyangan University. Bandung., 2000.
2. Ayu Wahyuni ,T Muttaqin Mansur. Settlement of Fishing Disputes Between Traditional Fishermen and Boat Owners Through the Laot Customary Court. Student Scientific Journal in the Field of Civil Law., 2020, 4(1).
3. [https://id.m.wikipedia.org/wiki/Panglima\\_La%27%C3%B4t](https://id.m.wikipedia.org/wiki/Panglima_La%27%C3%B4t)
4. <https://id.wikipedia.org/wiki/Rumpon>
5. Jamaes R Maxeiner. "Some Realism About Legal Certainty in the Globalization of the Rule of Law", 2015. in:<http://papers.ssrn.com>.
6. Mukhti Fajar, Yulianto Ahmad. Dualism of Normative and Empirical Legal Research, Student Library, Yogyakarta, 2010.
7. Mario Juliano. Understanding the Principle of Legal Certainty Through the Construction of Legal Positivism Reasoning. Crepido Journal., 2019, 1(1).
8. Samudra Putra Indratanto, Nurainun, Kristoforus Laga Kleden. "The Principle of Legal Certainty in the Implementation of Constitutional Court Decisions in the Form of State Institution Regulations and Government Regulations in Lieu of Law," Jurnal Imu Hukum, 2020, 16(1).
9. Solomon. Fisheries Management Challenges in Indonesia. Kanun Journal., 2010, 12(3).
10. Suteki, Galang Taufani. Legal Research Methodology (Philosophy, Theory and Practice). Rajagrafindo Persada. Depok., 2018.
11. Safri Nugraha. Local Government Authorities in the Context of International Law Overview of Regional Autonomy Law, in the Indonesian Journal of International Law, Center for International Law Studies, Faculty of Law. University of Indonesia., 2006.
12. Solomon. Model for Settlement of Fishing Equipment Conflicts. Kanun Journal of Legal Studies., 2013, 22(3).
13. Sri Walny Rahayu. Maritime Customary Dispute Settlement Institution "Panglima Laot" in Aceh as a Form for Development of Alternative Dispute Resolution in the Legal System in Indonesia. Padjadjaran Journal of Legal Studies.,2014, 1(3).
14. Soraya Devy, Siti Rahmi. The Role of the Marine Commander in Resolving the Crime of Illegal Fishing in the Waters of Pulo Aceh. Legitimacy: Journal of Criminal Law and Legal Politics., 2019, 8(1).
15. Teuku Muttaqin Mansur. About the Laot Customary Court in Aceh. Kanun Journal of Legal Science., 2012, 14(12).
16. Miftach Tjut Adek Secretary General of the Sea Commander of Aceh Province
17. A Kadir SP. MM Head of the Capture Division of the Aceh Province Marine and Fisheries Service