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EFFECTIVENESS OF CUSTOMARY DISPUTE RESOLUTION THROUGH CUSTOMARY COURTS: A STUDY IN LAWE SEMPILANG VILLAGE, LAWE ALAS DISTRICT

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Abstract: *The Authority of Customary Court Institutions in Settling Disputes through Customary Courts is one of the Alternatives in resolving disputes. Customary courts generally accommodate the interests of the disputing parties in the customary law area that applies both in civil law and criminal law that are resolved through customary courts are acts that violate Customary Norms. This study is related to customary court decisions that were not implemented in Lawe Sempilang Village, Lawe Alas District, Southeast Aceh Regency. This study aims to determine how the process of resolving customary disputes through customary justice: A study in Lawe Sempilang Village, Lawe Alas District, Southeast Aceh Regency. This type of research is empirical legal research (field research) research that studies phenomena in its natural environment with a sociological legal approach. Data collection techniques through interviews, observations and documentation. While the analysis technique uses qualitative descriptive methods. The results of the study indicate that customary justice has not been effectively used in Lawe Sempilang Village, Lawe Alas District, Southeast Aceh Regency with other required provisions in the form of replacement money/fines to perpetrators who are proven guilty and if the perpetrator is unable to pay, the victim can report to the police and sue in public court.*

Keywords: *Effectiveness, Customary Justice, Customary Disputes*

1. Introduction

Indonesia is a country with a very rich diversity of tribes, cultures and customs.¹ Indigenous communities in various regions have legal systems that differ from state law,

¹ Ramot Peter and Masda Surti Simatupang, "Keberagaman Bahasa Dan Budaya Sebagai Kekayaan Bangsa Indonesia," *Dialektika: Jurnal Bahasa, Sastra Dan Budaya* 9, no. 1 (2022): 96–105, <https://doi.org/10.33541/dia.v9i1.4028>.

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known as customary law.² This customary law has developed over centuries and still plays an important role in community life, especially in resolving disputes that arise between members of the customary community.³ Customary disputes can cover a variety of issues, such as land conflicts, inheritance, marriage, and other social issues that are resolved with local norms. However, the effectiveness of dispute resolution through customary courts is still debated.⁴

Customary justice is often the primary choice for indigenous communities to resolve disputes between them.⁵ This is because customary justice is seen as more in line with local values and norms, and is considered quicker and more affordable than state justice.⁶ In addition, customary justice has the value of restorative justice, where dispute resolution does not only focus on punishment, but also on restoring social relations damaged by conflict.⁷ However, several questions arise regarding whether customary justice is truly effective and fair in resolving disputes in the modern era.⁸

Although customary courts play an important role in resolving disputes at the local level, formal recognition by the state of customary courts is still limited. The 1945 Constitution and several sectoral laws have recognized the existence of indigenous communities and their legal systems, but their implementation is often suboptimal. One

² ni Luh Ariningsih Sari, "Pengakuan Dan Perlindungan Hukum Terhadap Masyarakat Hukum Adat (Dalam Perspektif Negara Hukum)," *Ganec Swara* 14, no. 1 (2020): 439, <https://doi.org/10.35327/gara.v14i1.119>.

³ Takwim Azami, "Dinamika Perkembangan Dan Tantangan Implementasi Hukum Adat Di Indonesia," *Jurnal Ilmu Hukum QISTIE* 15, no. 1 (2022): 42, <https://doi.org/10.31942/jqi.v15i1.6487>.

⁴ Naufal Riski, Shafarra Octaviyanda, and Wilson Fernando, "Implementation of Customary Law in Settlement of Land Disputes in Indonesia," *QISTINA: Jurnal Multidisiplin Indonesia* 2, no. 2 (2023): 1351–56, <https://doi.org/10.57235/qistina.v2i2.1301>.

⁵ Aprilianti & Kasmawati, *Hukum Adat Di Indonesia* (Bandar Lampung: Pusaka Media, 2022).

⁶ Stella Stella, "Pengaruh Hukum Adat Dalam Penyelesaian Sengketa Adat Di Pengadilan Hukum Adat," *Jurnal Hukum Dan HAM Wara Sains* 2, no. 09 (2023): 894–903, <https://doi.org/10.58812/jhhws.v2i09.658>.

⁷ Mufidah, Rizal Maulana, and Lia Fauziyyah Ahmad, "Peradilan Adat Sebagai Kerangka Restorative Justice Dalam Penyelesaian Perkara Pidana Di Indonesia," *Mizan: Journal of Islamic Law* 6, no. 2 (2022): 227–44.

⁸ Hendang Hadrian, *Penyelesaian Sengketa Melalui Perdamaian Pada Sistem Peradilan Perdata Sebagai Penyelesaian Rasa Keadilan Di Indonesia* (Depok: PT RajaGrafindo Persada, 2022).

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of the main challenges is how to ensure that customary court decisions do not conflict with national laws, especially those relating to human rights. This raises a dilemma between respecting local wisdom and ensuring that universal principles of justice are maintained.

Customary justice has several advantages compared to general justice, including its ability to resolve disputes more quickly and simply, because it is not bound by complicated procedures as in general justice. In addition, decisions made by customary courts are usually more acceptable to the disputing parties, because they feel closer to the customary norms used in the dispute resolution process. In this case, customary courts are also more capable of maintaining social harmony in customary communities compared to the more retributive approach of state courts.⁹

Despite having a number of advantages, customary justice also faces several significant challenges. One of the main challenges is the potential for bias or injustice, especially when the dispute resolution process is carried out by parties who have strong interests or authority in the customary community. In addition, customary courts often lack good documentation, making decisions difficult to review or verify. This also makes it difficult to integrate customary court decisions with the national legal system, which requires legal certainty and clarity in every decision.

The following is the form of customary law sanctions for customary criminal cases in Lawe Sempilang Village, if the violation is light to moderate according to the local MAA estimate, a fine of 16 cuut or small (Rp. 160,000) for poor people, medium (Rp. 160,000) for middle-class people and mbelin or large (Rp. 1,600,000) for rich people or kings is imposed. While the violation is estimated by the local MAA, the violation is subject to a

⁹ Tody Sasmitha Jiwa Utama and Sandra Dini Febri Aristya, "Kajian Tentang Relevansi Peradilan Adat Terhadap Sistem Peradilan Perdata Indonesia," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 27, no. 1 (2015): 57, <https://doi.org/10.22146/jmh.15910>.

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fine of 32 cuut (Rp 320,000) for the poor, middle (320,000) for the middle class, and mbelin (3,200,000) or (Rp.32,000,000) for the rich king according to the local MAA consideration. And serious violations according to the local MAA are subject to a fine of 64 cuut (Rp 64,000) for the poor, middle (Rp. 640,000) for the middle class and mbelin (Rp. 64,200,000) for the rich/king or according to the local MAA consideration. So in the case of customary crimes, the injured party receives 2/3 of the total fine, 1/3 for the purposes of the process and the parties regarding the settlement of customary crimes.

This also applies in Lawe Sempilang Village, Lawe Alas District, Southeast Aceh Regency, where after the author collected it during the dispute period between 2024, there were at least 3 (three) customary disputes that had been resolved in the customary court in the village. The author also found that in the village a joint regulation had been made if there was a party that committed a customary violation, namely anyone who committed theft in Lawe Sempilang Village, Lawe Alas District, Southeast Aceh Regency and was proven guilty would be fined (Rp. 5,000,000).

However, in its implementation, of the three customary disputes that have been resolved and decided in the village, not one was carried out by reporting to the local police station and this is certainly in contrast to the argument that states that customary justice is more acceptable among the community. However, the pact is very different and on the other hand there are several factors that in the author's opinion cause the community in Lawe Sempilang Village, Lawe Alas District, Southeast Aceh Regency not to implement the customary court decision, including because, as in the first case, the customary court decision gives a decision according to the local MAA fine, not adjusting the losses experienced by the victim so that the victim still experiences losses and cases two and three, there is no legal certainty that regulates customary regulations formed by Lawe Sempilang Village, such as the fine rule (Rp. 5,000,000) if proven guilty of theft.

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Based on Law Number 22 of 1999 concerning Regional Governments, those who are given the right or authority to regulate their own regions are expected to be able to implement regulations in accordance with existing norms and not conflict with the values that have developed in the region.¹⁰ Meanwhile, in the province of Aceh itself, the authority to regulate its region is given according to the culture inherent in the region, namely Islamic culture and culture, as proven by the implementation of qanuns.¹¹ Aceh regulates laws which in principle are taken from Islamic law which is used as a basis for resolving certain main issues.¹² Efforts to maintain and support the authority that has been given by the Central Government, especially the Aceh region which is given the authority to regulate its own region are stated in Law Number 18 of 2001 concerning Special Autonomy for the Special Region of Aceh Province. As the Province of Nanggroe Aceh Darussalam and after the issuance of the Law, Aceh has the authority to regulate the life of its own region including in the field of customary law which is proven by the issuance of regulations to regulate the Acehnese community in the form of qanuns stated in Aceh Qanun Number 9 of 2008 concerning the Development of Customary Life and Customs.

In addition, with the strong Islamic culture adopted by the Acehnese people, it is expected to cover the interests of the people in the area, both in the legal, economic, social and cultural fields. In the legal field in the Aceh Province, customary justice is formed which is pioneered by the Aceh Customary Council (MAA) which seeks to improve the maintenance, development and dissemination of existing customs. Customary law in society as an inseparable part of the customs that apply in Indonesia,

¹⁰ Andik Wahyun Muqoyyidin, "Pemekaran Wilayah Dan Otonomi Daerah Pasca Reformasi Di Indonesia: Konsep, Fakta Empiris Dan Rekomendasi Ke Depan," *Jurnal Konstitusi* 10, no. 2 (2013).

¹¹ Kurniawan, "Implementation of Special Government Authority Based on Law No. 11 of 2006 on the Aceh Government," *Yustisia* 5, no. 2 (2016): 231–55.

¹² Kamarusdiana, "Qanun Jinayat Aceh Dalam Perspektif Negara Hukum Indonesia," *Ahkam* XVI, no. 2 (2016): 151–62.

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increases the ability of professional traditional figures according to the conditions and needs of the community in the region, increases the dissemination of Acehnese customs into society through keureja udep (living work) and keureja mate (dead work), the appearance of creativity and media that are carried out have been regulated by Qanun of Nanggroe Aceh Darussalam Province Number 3 of 2004 concerning the Formation, Organizational Structure and Work Procedures of the Aceh Traditional Council of Nanggroe Aceh Darussalam Province. So to strengthen the Aceh Customary Council at the Provincial Level, the Aceh Customary Council was formed at the Regency level, one of which is Southeast Aceh Regency and to follow up on this, the Southeast Aceh Regent Regulation Number 21 of 2015 concerning the Implementation of the Settlement of Customary and Customary Disputes/Disputes was drafted. Meanwhile, the role and function of the Aceh Customary Council of Southeast Aceh Regency has progressed, so that the Aceh Customary Council of Southeast Aceh Regency has contributed a lot to the lives of the community.

That after the establishment of the Aceh Customary Council which is based at the Aceh Province level and considering the differences in Customary Culture inherent in community life in the Aceh region, the Regency/City Leaders made regulations to adjust and follow up on Aceh Qanun Number 3 of 2004 concerning the Establishment, Organizational Structure and Work Procedures of the Aceh Customary Council and in order to complement the qanun, Aceh Qanun Number 9 of 2008 concerning the Development of Customary Life and Customary and the qanun in Articles 13 and 14, in Aceh Qanun Number 10 of 2008 concerning Customary Institutions in Article 4 of this qanun gives authority to villages to regulate and develop customary life in the village led by the village head and to support this, the Regent of Southeast Aceh Regency issued a regulation in the form of Southeast Aceh Regent Regulation Number 21 of 2015 concerning the Implementation of Customary and Customary Dispute Resolution.

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2. Method

This type of research uses an empirical legal approach, also known as sociological legal research, in data collection. Empirical legal research is conceptualized as an observation of real behavior that appears as an unwritten social phenomenon and is experienced by every individual in community life. Therefore, empirical legal research is also referred to as sociological legal research. Based on this definition, empirical legal research is a type of field research that examines applicable legal provisions and what actually happens in society. This research is conducted to observe the application of positive law in everyday community life.¹³

This study uses a sociological legal approach. The sociological legal approach is to analyze how reactions and interactions occur when the norm system works in society.¹⁴ This method is built as a wise, institutionalized, and socially legitimized behavior of society. In other words, this approach tries to see how society influences law, and how law influences society.¹⁵

An empirical legal research is conducted with the aim of providing accurate data on humans, situations, or other phenomena. This study aims to examine the process of resolving customary disputes in Lawel Sempilang Village, Lawel Alas District, Southeast Aceh Regency. The approach used in this study is the legal sociology approach. Legal sociology is an approach that analyzes how relationships and interactions occur when a system of norms or legal rules are applied in people's lives. This approach helps to see how law functions in everyday social contexts.

¹³ Mustafa, *Metodologi Penelitian Hukum: Aplikasi Teknologi Dan Pendekatan Multidisiplin* (Purbolinggo: Cv.Eureka Media Aksara, 2024).

¹⁴ Muhammad Citra Ramadhan, *Metode Penelitian Hukum* (Yogyakarta: CV. Kaizen Sarana Edukasi, 2023).

¹⁵ Eka N.A.M Sihombing dan Cynthia Hadita, *Penelitian Hukum* (Malang: Setara Press, 2022).

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This study collected data from two main sources: primary data and secondary data. Primary data sources were obtained through interviews and direct observation of various parties such as: Village Head or his representative, residents of Lawe Simpilang Village, Lawe Alas District, Southeast Aceh Regency. Meanwhile, secondary data includes information from existing documents and records, from legal sources in the form of codified regulations such as Laws, Regional Regulations including Provincial Government Regulations in this case the Aceh Qanun, and Regency/City Regional Regulations in this case the Aceh Tenggara Regency Regulations.

Data collection techniques in this study include interviews, observations, and documentation. The analysis technique using this qualitative descriptive method aims to describe the settlement of customary disputes through Customary Courts in Lawe Simpilang Village, Lawe Alas District, Southeast Aceh Regency, and to describe how cases are submitted to the court after a customary court decision in Lawe Simpilang Village, Lawe Alas District, Southeast Aceh Regency in terms of Al-Sulthah Al-Qadhaiyyah. This analysis aims to examine the problems that arise in the system that works in customary courts in resolving customary disputes in Lawe Simpilang Village, Lawe Alas District, Southeast Aceh Regency, so that it can be concluded the effectiveness of customary dispute resolution through customary courts in the study in Lawe Simpilang Village, Lawe Alas District, Southeast Aceh Regency.

3. Analysis or Discussion

The existence of indigenous communities in Indonesia is recognized constitutionally as regulated in the 1945 Constitution, 4th Amendment Article 18B paragraph (2): "The state recognizes and respects indigenous community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia as regulated in

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the Law." At a practical level, for example, the 1945 Constitution which introduced the Right to Control the State was based on Ulayat Rights, the Rights of Lordship which are traditionally recognized in customary law.¹⁶

In addition to being protected by the constitution, the existence of indigenous communities is also protected in Law No. 39 of 1999 concerning Human Rights as regulated in Article 6 paragraph (1) and paragraph (2) which stipulates: In the framework of implementing Human Rights, the protection and needs of indigenous legal communities must be considered and protected by law, society, and government. The cultural identity of indigenous legal communities including rights to customary land is protected, in line with developments in the era.¹⁷

Looking at the existing regulations, such as in Article 13 of Aceh Qanun No. 9 of 2008 concerning the Development of Customary Life and Customs, there are at least 18 (eighteen) cases that can be resolved through customary courts, including: disputes in households, disputes between families related to faraidh, disputes between residents, khalwat melusum, disputes about property rights, theft in the family (minor theft), inheritance disputes, minor theft, theft of livestock, violations of customs regarding livestock, agriculture, and forests, disputes at sea, disputes in markets, minor assaults, forest burning (on a small scale that is detrimental to the customary community), harassment, slander, incitement, and defamation, environmental pollution (minor scale), threats (depending on the type of threat); and other disputes that violate customs and customs.¹⁸

¹⁶ Wirani Aisiyah Anwar, *Hukum Islam Dan Hukum Adat (Studi Kasus Tentang Kawin Lari)* (Padang: Lembaga Pendidikan dan Pelatihan Balai Insan Cendekia, 2020).

¹⁷ Hendri Jayadi, *Hukum Alternatif Penyelesaian Sengketa Dan Teknik Negoisasi* (Yogyakarta: Publika Global Media, 2023).

¹⁸ Dicky Armanda, Yusrizal Hasbi, and Romi Asmara, "Strategi Penerapan Qanun No. 6 Tahun 2014 Tentang Hukum Jinayah Di Aceh," *Asia-Pacific Journal of Public Policy* 7, no. 1 (2021): 18–28, <https://doi.org/10.52137/apjpp.v7i1.59>.

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A. Authority of Customary Court Institutions in Resolving Customary Disputes Through Customary Courts

The authority of the Customary Court Institution in resolving customary disputes in Southeast Aceh Regency, as in many other regions in Indonesia, involves a special mechanism that utilizes customary institutions. The Aceh Customary Council (MAA) of Southeast Aceh has an important role in this regard, especially in the context of the application of customary law in force in Southeast Aceh.

The following are the authorities that regulate the Customary Court Institution in Aceh Qanun No. 10 of 2008 concerning Customary Institutions in Article 4, and several steps in resolving customary disputes implemented by the Aceh Customary Council in Southeast Aceh Regency in accordance with Article 17 of Southeast Aceh Regent Regulation No. 21 of 2015, concerning the Implementation of Customary and Customary Dispute/Dispute Resolution in Article 17, as follows:



That based on the author's research through field observations in the period 2024, there were at least 3 (three) customary disputes that had been resolved through

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customary courts in Lawel Selmpilang Village, Lawel Alas District, Southeast Aceh Regency, including:

No.	Parties	Type of Dispute	Customary Court Decision	Description
1	2	3	4	5
1	The victim has the initials S and the perpetrator has the initials A.	Crime/ duck theft	The Customary Court decided that A was proven guilty and was fined and required to pay an amount of Rp. 1,600,000,- (one million six hundred thousand rupiah) in accordance with local MAA regulations, namely a fine of 16 or in rupiah form of Rp. 1,600,000,- (one million six hundred thousand rupiah). Initially, S agreed with the customary court's decision. However, after a few days the decision was completed and implemented, the parties, S returned A's money on the grounds that he was still dissatisfied with the resolution of the case.	Arriving at the police station, they returned the case to the village because the case was still within the jurisdiction of customary courts.

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2	<p>The victim's initials are A and the perpetrator's initials are P.</p>	<p>Crime/Theft of Betel Nuts.</p>	<p>The Customary Court decided that P was fined Rp 5,000,000 (five million rupiah), but P did not acknowledge the fine because P felt that there was only a misunderstanding. P explained that he used to often take betel nuts beyond the boundaries of his garden because the garden previously belonged to his brother and he had been given permission to take them. However, when P took the betel nuts as usual, namely beyond the boundaries of his garden, the new garden owner reported the incident to the village head of Lawel Selmpilang. Previously, the village had provided a solution to reconcile, but A still wanted P to be fined. So A took the case to the Police.</p>	<p>Finished at the police station or resolved peacefully within the family.</p>
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3	The victim's initials are Z and the perpetrator's initials are P.	The crime of stealing betel nuts.	The Customary Court ruled that P was proven guilty of stealing Z's betel nut and was fined Rp 5,000,000 (five million rupiah). However, P was unable to carry out the verdict. As a result, Z reported the case to the Police for further processing.	Police return case to customary court
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The table above shows that there were 3 cases that occurred in Lawe Sempilang Village, none of which were resolved in the customary court, according to the author there are several cases where the local MAA fine is not effective in the settlement process in the customary court in Lawe Sempilang Village such as the first case in the table, namely before the enactment of the regulation in Lawe Sempilang Village, a fine of 5,000,000 (five million rupiah) in the case of theft. This means that the old customary court decision is still being used where the perpetrator is fined 16 or converted to 1,600,000 (one million six hundred rupiah). Not to mention paying 1/3 of the court costs while 2/3 is given to the victim, in the customary court decision the local MAA decision is not adjusted to the victim's losses while the victim's losses are more than 1,000,000 (one million) meaning that the victim is still experiencing losses, so the police sent a letter to review the victim's losses.

Meanwhile, cases two and three in Lawe Sempilang Village have implemented joint regulations that if a party commits a violation, namely theft, a fine of 5,000,000 (five million rupiah) will be imposed. This fine is not yet accurate in the settlement process in the customary court because the rules made have not been formalized by the MAA Aceh Customary Council of Southeast Aceh Regency and the Muspika in the sub-district area

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(Camat, Kapolsek, Danramil) so that the decision is still a problem in the process of resolving the case.

B. The Process of Submitting a Case to the Court After a Customary Court Decision Reviewed from the Siyasaq Qadhaiyah

In the process of submitting a case to the court after the customary court decision in Lawel Selmpilang Village, it is basically the same as in general, namely the community submits a case to the court. However, what distinguishes it is the type of case submitted, whether the case is included in the civil or criminal category. If we look at the cases that are not carried out by the community, this is due to the lack of community understanding of the importance of implementing customary court decisions. As a result, they do not carry out the customary court decisions that have been decided.

Looking at the efforts made by the Southeast Aceh District Government in regulating the community in the field of customs, based on the Southeast Aceh Regent Regulation Number 21 of 2015 concerning the Implementation of Customary and Customary Dispute Resolution, this is an opportunity to create a law-abiding society. As a leader, one must be able to implement the regulations that have been made as well as possible, so that they can create order in society and provide benefits to the community to achieve welfare, in accordance with the true nature of fiqh siyasah, namely for the welfare of the community. In an effort to maintain harmony, order, and community welfare, the Southeast Aceh District Government, especially the Aceh Customary Council of Southeast Aceh District, has made various efforts to achieve harmony, order, and welfare.

If we look at and refer back to Article 18 of the Southeast Aceh Regent Regulation Number 21 of 2015 concerning the Implementation of the Settlement of Customary and

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Customary Disputes/Disputes, we will find that customary court decisions are peaceful, binding, and refer to deliberation and consensus. As long as the customary court decision is implemented, it is the obligation of the parties to implement the decision. However, if the customary court decision is not implemented by the parties, then the decision is automatically cancelled and there will be no legal consequences for the parties concerned.

Then, it can be seen that the implementing regulations issued by the Regent of Southeast Aceh, namely the Southeast Aceh Regent Regulation Number 21 of 2015, is one form of seriousness from the Southeast Aceh government to guarantee legal certainty and strive to preserve and maintain the existence of customs, especially in the field of customary law in Southeast Aceh Regency. Thus, it can be said that the regulation is in accordance with the criteria of a regulation in Fiqh Siyasah, the following is the author's description of these criteria, namely:

- a. In accordance with and not contrary to Islamic law.
- b. Upholding the equal position of humans before the law and government (al-musawah).
- c. Creating a sense of justice in society.
- d. Creating benefits and preventing harm.
- e. It does not burden the people who carry it out.

From the description above, it can be seen that the policy of the Southeast Aceh Government in an effort to foster customary life in the community of Southeast Aceh Regency is very much in accordance with Siyasah Quladiyah. This can be seen from the purpose of making the regulation, which is none other than to create benefits, avoid harm, and provide legal certainty. Then, in the implementation of a regulation, so that the regulation can be realized properly, the community must also submit to the law or regulations made by the government. To achieve the welfare, the people

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must also submit and obey the leader, as explained in the Word of Allah SWT in the Qur'an Surah An-Nisa Verse 59:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ
وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا - ٥٩

Meaning: "O you who believe, obey Allah and obey His Messenger, and the ulil amri (powerful leaders) among you. Then, if you differ in opinion about something, then return it to Allah (Al-Qur'an) and His Messenger (Sunnah), if you believe in Allah and the Last Day, that is more important (for you) and the consequences are better." (QS. An-Nisa: 59).¹⁹

Based on the verse above, as human beings, especially Muslims, we are obliged to obey or adhere to ulil amri. What is meant by ulil amri are those who hold power, such as leaders or government officials.²⁰ What is stipulated by Ulil Amri, we are obliged to obey and respect in order to achieve true benefit. People are also required to submit and obey the leader, even if the leader is a servant or slave. This teaches that obedience to legitimate leaders is very important to achieve order, prosperity and benefit of the people.

However, the reality in the field is different, where customary court decisions are more often not implemented because the customary regulations still have obstacles in the case resolution process. For example, in Lawe Sempilang Village, anyone who is proven guilty of theft will be fined Rp. 5,000,000, which causes the customary court decision not to be implemented. If the customary court decision is

¹⁹ Departemen Agama Republik Indonesia, *Al-Quran Terjemahan* (Semarang: Cv. Toha Putra, 1989).

²⁰ M. Quraish Shihab, *Tafsir Al-Misbah* (Jakarta: Lentera Hati, 2005).

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not implemented by the justice-seeking community, because the community feels that their rights have not been fulfilled at the customary court level and chooses to take the case to the general court, can this be considered as a community that is disobedient to its leader? To answer this question, the author refers to Article 18 number (1) of the Southeast Aceh Regent Regulation Number 21 of 2015 concerning the Implementation of Customary and Customary Dispute/Dispute Resolution, which states that customary court decisions are peaceful and binding.

Even if traced, the customary court decision contains a peace that binds the parties who make peace and provides an opportunity for anyone to seek their rights, namely by continuing to the general court in both civil and criminal cases. However, in certain cases that are legally reported offenses, if a peace deed is made, the deed cannot bind both parties.

C. Analysis of the Effectiveness of Customary Justice in Lawe Sempilang Village, Lawe Alas District, Southeast Aceh Regency

To see the effectiveness of a regulation applied in society, the regulation itself must first be seen, whether the regulation is obeyed and implemented by the community, or the regulation is not implemented by the community. In Lawe Sempilang Village, Lawe Alas District, Southeast Aceh Regency, customary regulations have been implemented, where anyone who violates customary provisions in the village will be tried through customary justice.

In addition, Lawe Sempilang Village, Lawe Alas District, Southeast Aceh Regency has implemented alternative dispute resolution, namely through customary courts originating from Southeast Aceh Regent Regulation Number 21 of 2015 concerning the Implementation of Customary and Customary Dispute/Dispute Resolution. There are at least 18 customary disputes that can be resolved through customary courts,

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including: disputes in households, disputes between families related to faraidh, disputes between residents, khalwat melusum, disputes about property rights, theft in the family (minor theft), inheritance disputes, minor theft, theft of livestock, violations of customs regarding livestock, agriculture, and forests, disputes at sea, disputes in markets, minor abuse, forest burning (on a small scale that is detrimental to the customary community), harassment, slander, incitement, and defamation, environmental pollution (minor scale), threats (depending on the type of threat), and other disputes that violate customs and customs.²¹

In 2024, there were three customary dispute cases that were collected by the author and decided in Lawe Sempilang Village, Lawe Alas District, Southeast Aceh Regency. The three cases were related to theft, which were examined and decided through a peace decision. In the decision, the defendant was fined. However, because the violator of the customary dispute was unable to pay the fine set, the victim finally reported the case to the police.

Looking at the three customary disputes that have been decided and described by the author above, which were not implemented for the reasons explained previously, it is necessary to question whether the failure to implement the regulation has consequences for parties who do not implement the decision. Based on the legal basis of customary justice in Lawe Sempilang Village, Lawe Alas District, Southeast Aceh Regency, which is sourced from Southeast Aceh Regent Regulation Number 21 of 2015, Article 18 number (1) concerning the Implementation of Customary and Customary Dispute/Dispute Resolution, which states that customary court decisions are peaceful and binding on both parties.

Viewed from the perspective of Fiqh Siyasah, the most in line and discussing the judiciary

²¹ Armanda, Hasbi, and Asmara, "Strategi Penerapan Qanun No. 6 Tahun 2014 Tentang Hukum Jinayah Di Aceh."

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is *Siyasah Qadhaiyyah* (Islamic Legal Justice), which emphasizes legal certainty as the purpose of implementing a law. Al-Yasa' Abubakar's explanation of *siyasah al-qadhaiyyah* involves the authority of the judicial power stipulated in Islamic law to maximize the function of the judiciary. In the context of the judiciary, *siyasah qadhaiyyah* is guaranteed by the state which formulates the realm of authority aimed at enforcing sharia laws.

The guarantee contains an important element that frees the judiciary from interference from other areas of power so that the implementation of Islamic law can be carried out fairly, objectively, and without intervention, as Abu Hanifah argued. The intended judicial guarantee aims to ensure that the decision-making for implementing the law has an impact on the legal certainty of citizens that is in line with the objectives of Islamic law (*maqashid al-syari'ah*). Al-Syathibi divides the objectives of sharia into two categories, namely based on its formulation (*syari'*) and based on its perpetrators (*mukallaf*). In more detail, al-Syatibi revealed in his research that there are four things contained in *maqashid al-syari'ah*, including.

- a. The main objective of the Shari'a is the welfare of mankind in this world and in the hereafter.
- b. Shari'a is a provision that must be understood.
- c. Shari'a is a taklifi law that must be carried out.
- d. Shari'a aims to bring mankind to submit under the auspices of the law.

The four conditions expressed by al-Syatibi above have an element of legal certainty that all issues of society and the state must be in accordance with the rule of law. Customary court decisions that are not implemented can be considered to violate the principles of *maqashid al-syari'ah* above. For example, in the first case, the customary court decision only provides a verdict in accordance with the local MAA fine, not adjusting the losses experienced by the victim, so that the victim still experiences losses. While in cases two and three, the absence of legal certainty

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governing customary regulations established by Lawe Sempilang Village, such as the fine (Rp. 5,000,000) for those proven guilty of theft, adds to the uncertainty.

4. Conclusion

1. The authority of the Customary Court Institution in resolving customary disputes through customary courts in Lawel Sempilang Village, Lawel Alas District, Southeast Aceh Regency, has not been implemented effectively because many still ignore the rights of the parties. However, the parties continue to proceed to the general court because the perpetrators are unable to fulfill the fine provisions stated in the customary court decision. Dispute resolution through customary courts is only an alternative, not an obligation. Based on the Regulation of the Southeast Aceh Regent Number 21 of 2015 concerning the Implementation of Customary and Customary Dispute/Dispute Resolution, customary court decisions are peaceful and binding, but in reality, anyone can proceed to the general court level, both from the perpetrator and the victim.
2. The process of submitting a case to the court after a customary court ruling in Lawel Sempilang Village, Lawel Alas District, Southeast Aceh Regency, is the same as in general people who submit cases to the court. What distinguishes it is the type of case filed, whether it is a civil or criminal case. If we look at the theft case that has been decided by a customary court ruling in the form of a peaceful settlement, where the perpetrator is required to pay a fine to the injured party, but because the perpetrator is unable to pay the fine, the victim continues to report it to the police. In this case, if viewed from the fiqh siyasah related to this research, this is included in the category of Siyasah Qadhaiyah.

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3. In the first case, the customary court decision imposed a fine in accordance with the provisions in force in the local MAA, but did not consider the losses suffered by the victim, so the victim still suffered losses. In the second and third cases, there was no legal certainty governing the customary regulations made in Lawel Sempilang Village, such as the fine regulation (Rp. 5,000,000) if proven guilty of theft. In fact, in making regulations such as village regulations made by the community, related institutions such as the MAA of Southeast Aceh Regency, Muspika at the sub-district level (Camat, Polsek, Danramil), should be involved so that the resulting regulations have legal certainty and can be accepted legally. This is important so that the village regulations are in accordance with the principles in *Siyasah Qadhaiyah*, which emphasizes the importance of legal certainty in the implementation of judicial decisions.

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