

# Sanctions for Fish Theft According to Regulation No. 09 of 2021 in the Perspective of Islamic Criminal Law in Nagari Padang Air Dingin

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**Abstract:** This research examines the sanctions for fish theft as regulated by Regulation No. 09 of 2021 in Nagari Padang Air Dingin, from the perspective of Islamic Criminal Law. Fish theft is a significant issue in the community, and local regulations are enforced to address this crime. Regulation No. 09 of 2021 stipulates penalties for those caught stealing fish within the jurisdiction of Nagari Padang Air Dingin, aiming to protect the livelihoods of local fish farmers and ensure the sustainability of fisheries. Islamic Criminal Law offers a framework for dealing with theft, including hudud (fixed punishments), ta'zir (discretionary punishments), and reconciliation between the offender and the victim. This study analyzes how the local regulations align with or differ from Islamic legal principles concerning theft, focusing on the nature of the crime, the process of adjudication, and the punishment applied. The findings suggest that while the regulation primarily focuses on material restitution and deterrence, there is room for incorporating Islamic values such as repentance, forgiveness, and community-based resolutions in resolving cases of fish theft. By comparing local norms with Islamic criminal jurisprudence, this research highlights the potential for a more holistic approach to justice that balances punishment with moral and social rehabilitation.

**Keywords:** Customary Sanctions; Criminal Law; Nagari Regulation

## 1. Introduction

Theft is a type of crime that frequently occurs in society. The community feels concerned about the thefts happening around them. Due to the high rate of theft, the community becomes anxious. Criminal activities in a society are not confined to a specific location or time frame. Instead, they manifest in various forms and types. The specific circumstances of a crime, including location, time, and the nature of the violation, influence the type of crime that occurs. According to Islamic law, theft, also known as sariqah, is defined as the stealthy and unjust taking of someone else's property from a location that is usually protected for various purposes, as explained by Muhammad Al-Khatib Al-Syarbini, a prominent scholar from the Shafi'i school of thought. According to its form and characteristics, these criminal acts are considered illegal because they violate the order or regulations established by the law. Such acts disrupt the good and just customs within society, causing significant harm to the community.<sup>1</sup> Theft, in this context, is particularly troubling for society at large. Therefore, authorities must take strict action against theft occurring in the community. Perpetrators usually commit crimes or offenses due to a drive or motivation to meet relatively difficult life needs.

One of the most common criminal offenses is theft, which is the subject of extensive coverage in various media, both electronic and print. A person's daily life is often associated with theft, such as

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<sup>1</sup> Ramadhan Marco F.P, Mutiara Firsty L.N.A, and Sutan Syahnendra A., 'Urgency of Indonesian Waters Area Protection from Illegal Unreported Unregulated Fishing', *Journal of ASEAN Dynamics and Beyond* 1, no. 1 (19 December 2020): 48, <https://doi.org/10.20961/aseandynamics.v1i1.46821>.

their economic situation or low income which prevents them from meeting basic needs, and low levels of education. Various individual and group interests influence different motives for criminal acts. In criminal law theory, both the internal determinism within the perpetrator and the external determinism outside the perpetrator can affect the background of criminal acts. Theft, which can be considered one of the oldest crimes, is very common in society.<sup>2</sup> According to the Penal Code, Article 362 states: Whoever takes an item that is wholly or partially owned by another person with the intent to possess it and acts against the law, shall be punished for the crime of theft and so on. In Islamic teachings, Allah SWT greatly despises thieves and will provide a punishment for those who steal.

The verse explains the punishment prescribed for those who oppose Allah and His Messenger, disturb the natural order, and unlawfully seize the property of others. Furthermore, this verse specifies the punishment of hand amputation for both men and women who commit theft. This verse serves to clearly establish the law of hand amputation for thieves. However, it does not specify the type of property that must be stolen for the thief to be subjected to this punishment, nor does it explain the penalty for a thief who commits the same offense a second time.<sup>3</sup> The Quran outlines a severe punishment for those who commit theft. In the Quran, Allah advises that thieves should be punished by having their hands cut off. This punishment applies equally to both men and women, regardless of gender. To prevent injustice and encourage virtuous behavior, Allah SWT has mandated hand amputation as a punishment for those who commit theft. Islamic legal scholars have differing opinions on the application of hand amputation for theft, with some permitting it and others opposing it, citing various reasons, including the applicability of Quranic verses in all contexts and times. This punishment is established by Allah SWT as a deterrent for thieves and a lesson for His people. In all of His decrees, Allah is All-Powerful and All-Knowing.

In addition to the regulations set forth in the Quran, each community typically has its own rules, customs, or traditions, often referred to as adat. Adat can be understood as customs that have become standards of behavior. It is considered a moral, ethical, and moral foundation, even though it is intangible. Thus, adat is a product of culture that is immaterial. The values of decency, morality, and religion are the foundations of adat, originating from human conscience. Religious values come from the Quran and Hadith, while values of decency derive from local traditions.<sup>4</sup> Customary law, or traditional law, refers to longstanding customs and practices followed by members of a community who have adopted these traditions. Customary law encompasses practices that have become established norms of behavior within a society. Although these customs may not occur continuously or repetitively, they will resurface at certain points and must be observed. Failure to adhere to these customs may result in sanctions or legal consequences as predetermined or agreed upon by the community. Similarly, individuals who violate established rules within a

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<sup>2</sup> Nurjannah Nurjannah and Noor Azizah, 'Tinjauan Hukum Pidana Islam Terhadap Anak Sebagai Pelaku Bullying Yang Menyebabkan Korban Meninggal Dunia', *Journal of Education, Humaniora and Social Sciences (JEHSS)* 6, no. 3 (23 February 2024): 1213–20, <https://doi.org/10.34007/jehss.v6i3.2102>.

<sup>3</sup> Nasha Rawza Alya, Gunardi Lie, and Moody Rizqy Syailendra Putra, 'Tindak Pidana Pencurian Yang Dilakukan Oleh Seseorang Yang Mengidap Penyakit Kejiwaan Kleptomania', *JLEB: Journal of Law, Education and Business* 2, no. 1 (1 April 2024): 48–52, <https://doi.org/10.57235/jleb.v2i1.1532>.

<sup>4</sup> Nurdin, Ikaningtyas, and Rika Kurniaty, 'The Implementation of Vessel-Sinking Policy as an Effort to Protect Indonesian Fishery Resources and Territorial Waters', *IOP Conference Series: Earth and Environmental Science* 137 (April 2018): 012038, <https://doi.org/10.1088/1755-1315/137/1/012038>.

particular area may face sanctions or legal repercussions in accordance with the regulations they have breached.<sup>5</sup>

The research seeks to address a critical question: How do the principles of Islamic law regarding theft, specifically the prescribed punishment of hand amputation, align with the customary regulations and penalties established in local communities such as Nagari Padang Air Dingin? This inquiry aims to explore the intersection of religious doctrines and local traditions, particularly in contexts where the local legal frameworks, such as those outlined in PERNA No. 09 of 2021 for managing prohibited fish in Nagari Padang Air Dingin, differ from traditional Islamic penal codes. By examining how local customs and regulations adapt or conflict with Islamic legal principles, the study seeks to provide a comprehensive understanding of the practical application and adaptation of theft-related punishments within specific cultural and legal environments. This research will thus offer insights into how Islamic criminal justice principles are integrated with local customary practices and how these combinations affect the enforcement of penalties for theft in various settings.

## 2. Method

The research methodology encompasses fundamental steps for summarizing facts or events within a study to achieve objectives based on hypotheses, utilizing specific research tools. This study employs field research, where data is collected through interviews with the Nagari Padang Air Dingin Government. The research is qualitative and descriptive, presenting findings based on factual observations. According to Poerwandari, qualitative research yields descriptive data, including interview transcripts, visual materials, and audio recordings. The goal is to provide insights into participants' perspectives on real events within the community. The researcher engages directly in the field, conducting interviews and observing sanctions imposed by the Nagari government on perpetrators of prohibited fish theft in Nagari Padang Air Dingin, Jorong Buluh Kasok.

The study utilizes both primary and secondary data sources. Primary data is gathered through interviews with local leaders, fishery experts, perpetrators, and residents, focusing on how theft offenses are addressed according to customary law. Secondary data, which supports primary data, includes laws, government regulations, theses, articles, and books on Jinayah fiqh and customary law. Data collection involves interviews using the 5W+1H method, capturing detailed and emotional responses. Data analysis follows an inductive approach, drawing conclusions from specific facts to understand community reactions and the impact of rule violations, viewed through the lens of Islamic Criminal Law to ensure deterrence and reflection for the community.

## 3. Analysis or Discussion

### 3.1. Sanctions for the Crime of Prohibited Fish Theft

Criminal acts in this village are very rare; when they do occur, they are often regarded by the local community as mere violations. Under Indonesian positive law, such actions are classified as minor offenses (Tipiring). An example of this is the crime of prohibited fish theft. In Nagari Padang Air

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<sup>5</sup> Faradiba Putri Rahmadani and Agus Triono, 'SHIP SINKING POLICY: A LEGAL CHOICE TO ERADICATE ILLEGAL FISHING IN INDONESIA', *Lampung Journal of International Law* 4, no. 2 (14 October 2022): 55–66, <https://doi.org/10.25041/lajil.v4i2.2670>.

Dingin, this behavior is considered a violation of customary law.<sup>6</sup> Therefore, taking property that does not belong to someone is seen by the community as a serious infraction, breaching rules that have been established and passed down through generations. To address such issues, cases can be processed at the village level, where the perpetrator is brought before a youth post attended by the Nagari Government, Niniak Mamak, youth representatives, Wali Jorong, the management of Mushollah Babussalam, community members, and BABINKAMTIBNAS (TNI/POLRI) in Nagari Padang Air Dingin. If found guilty, the perpetrator faces a fine of IDR 10,000,000 (ten million rupiah). This substantial amount is intended to deter theft, as it is considered very significant compared to the value of the stolen fish or the illegal fishing from restricted areas.<sup>7</sup>

The fine collected is not given to the aggrieved party but is instead used for development projects within the village, such as road construction, mosque/mushollah building, and other infrastructure improvements in Nagari Padang Air Dingin. According to cases of prohibited fish theft in Nagari Padang Air Dingin, sanctions imposed on perpetrators are based on PERNA No. 09 of 2021 concerning Pokmaswas Management of Prohibited Fish in Nagari Padang Air Dingin, which is detailed in Chapter V, Article 9. If a prohibited fish theft occurs within the community of Nagari Padang Air Dingin, the penalty is IDR 10,000,000 (ten million rupiah). For theft by individuals from outside the Nagari, the fine is IDR 20,000,000 (twenty million rupiah). If the fines specified in points 1 and 2 are not paid within 7 days, the case may be escalated to the authorities (police).<sup>8</sup> The confiscated items and fines are allocated to the Pokmaswas group and used for the purposes of managing prohibited fish.

In the first interview, the researcher spoke with Mr. Suhefridal, a section head of General Planning at the Nagari Padang Air Dingin office. He stated that the sanctions for prohibited fish theft are clearly outlined in PERNA No. 09 of 2021 concerning Pokmaswas Management of Prohibited Fish in Nagari Padang Air Dingin. If the perpetrator is from the Padang Air Dingin community, the penalty is IDR 10,000,000 (ten million rupiah). If the perpetrator is from outside the Nagari, the fine is IDR 20,000,000 (twenty million rupiah). The sanctioning process involves bringing the perpetrator to the youth post for prohibited fish, attended by the Nagari Government, Niniak Mamak, youth representatives, Wali Jorong, the management of Mushollah Babussalam, Babinkamtibmas (TNI/POLRI), and local community members. Sanctions are imposed when the perpetrator is proven guilty, supported by evidence and witness testimonies.<sup>9</sup>

In the second interview, Mr. Yendri Eka Putra, a prohibited fish caretaker (Pawang), discussed the consequences of theft. In addition to the sanctions described in PERNA No. 09 of 2021, the perpetrator may also suffer from stomach ailments, memory loss, stupidity, accidents, or even death. The sanctioning process includes a trial at the youth post for prohibited fish, attended by the Nagari Government, Niniak Mamak, youth representatives, Wali Jorong, the management of

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<sup>6</sup> Muhammad Irkham Firdaus, 'CRITICISM ANALYSIS OF THE EFFECTIVENESS OF INDONESIA'S ECONOMIC CRIMINAL POLICY IN THE PERSPECTIVE OF ISLAMIC LAW', *JCH (Jurnal Cendekia Hukum)* 8, no. 1 (30 September 2022): 85, <https://doi.org/10.33760/jch.v8i1.570>.

<sup>7</sup> I Gusti Bagus Dharma Agastia, 'A "Matter of Life and Death"? Patterns of Securitisation and Desecuritisation of Food Resilience in Indonesia', *JAS (Journal of ASEAN Studies)* 11, no. 1 (31 August 2023): 111–41, <https://doi.org/10.21512/jas.v11i1.9143>.

<sup>8</sup> Dwi Putri Melati Ria Delta Raden Gunawan, 'Efektifitas Pemberian Sanksi Pidana Bagi Anak Pelaku Tindak Pidana Pencurian', *Muhammadiyah Law Review* 7, no. 1 (29 January 2023): 21, <https://doi.org/10.24127/lr.v7i1.2504>.

<sup>9</sup> Ahmad Rofiq, Pujiyono Pujiyono, and Barda Nawawi Arief, 'Eksistensi Tindak Pidana Ta'zir Dalam Kehidupan Masyarakat Indonesia', *Journal of Judicial Review* 23, no. 2 (23 December 2021): 241, <https://doi.org/10.37253/jjr.v23i2.4957>.

Mushollah Babussalam, Babinkamtibmas (TNI/POLRI), and local residents. During the trial, questions are asked about the perpetrator's origin, the reasons for theft, and their awareness of the river being a prohibited fish area. If the perpetrator is from Padang Air Dingin, the fine is IDR 10,000,000 (ten million rupiah); if from outside the Nagari, the fine is IDR 20,000,000 (twenty million rupiah). Sanctions are imposed after the trial concludes and the perpetrator is found guilty.<sup>10</sup>

In the following interview, the researcher spoke with one of the Niniak Mamak, Mr. Yumsal. He explained that the penalty for theft of prohibited fish is a fine of IDR 10,000,000 (ten million rupiah), as stipulated in PERNA No. 09 of 2021 concerning Pokmaswas Management of Prohibited Fish in Nagari Padang Air Dingin. In addition to this monetary penalty, the perpetrator may also face misfortunes such as stomach ailments, accidents, and even death. The sanctioning process is conducted at the prohibited fish youth post, attended by the Nagari Government, Niniak Mamak, youth representatives, Wali Jorong, the management of Mushollah Babussalam, Babinkamtibmas (TNI/POLRI), and local residents. Sanctions are imposed after the trial is completed.<sup>11</sup>

In another interview, the researcher spoke with Mr. Hotma Arimonica, the Wali Jorong Buluh Kasok. He noted that theft of prohibited fish can lead to consequences such as stomach pain, memory loss, and in some cases, death. The financial penalty is IDR 10,000,000 (ten million rupiah) for perpetrators from the Padang Air Dingin community, while those from outside the Nagari are fined IDR 20,000,000 (twenty million rupiah), according to PERNA No. 09 of 2021.<sup>12</sup> The sanctioning process involves a trial at the youth post for prohibited fish, attended by the Nagari Government, Niniak Mamak, youth representatives, Wali Jorong, the management of Mushollah Babussalam, Babinkamtibmas (TNI/POLRI), and local residents. During the trial, questions are asked about the perpetrator's origin, the reasons for theft, and their awareness of the river being a prohibited fish area. Sanctions are imposed once the trial is concluded and the perpetrator is found guilty. In a final interview with a local resident, Mrs. Sasniati, she mentioned that perpetrators of theft often experience stomach ailments or even death if they do not admit their actions. She was less clear on the legal basis for the fines but confirmed that the sanctioning process occurs at the prohibited fish youth post, with the involvement of the Nagari Head or their representative, Niniak Mamak, Wali Jorong, youth representatives, the management of Mushollah Babussalam, TNI/POLRI, and the local community. A consultation or trial is then held to determine the penalty for the perpetrator.<sup>13</sup>

### 3.2. Customary Law in Overcoming Theft in Nagari Padang Air Dingin

In another interview, the researcher spoke with Mr. Hotma Arimonica, the Wali Jorong Buluh Kasok. He noted that theft of prohibited fish can lead to consequences such as stomach pain, memory loss, and in some cases, death. The financial penalty is IDR 10,000,000 (ten million rupiah) for

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<sup>10</sup> Rita Floyd, 'Extraordinary or Ordinary Emergency Measures: What, and Who, Defines the "Success" of Securitization?', *Cambridge Review of International Affairs* 29, no. 2 (2 April 2016): 677–94, <https://doi.org/10.1080/09557571.2015.1077651>.

<sup>11</sup> Maya Shafira et al., 'Focus Group Discussion Tindak Pidana Destructive Fishing Dan Dampaknya Terhadap Keberlanjutan Pariwisata Bahari Kabupaten Pesawaran', *JPKMI (Jurnal Pengabdian Kepada Masyarakat Indonesia)* 3, no. 1 (10 February 2022): 13–26, <https://doi.org/10.36596/jpkmi.v3i1.259>.

<sup>12</sup> Mutiara Hikmah, 'ILLEGAL FISHING IN INDONESIA FROM THE NATIONAL AND THE INTERNATIONAL LAW PERSPECTIVE', *Indonesian Journal of International Law* 11, no. 1 (31 October 2013), <https://doi.org/10.17304/ijil.vol11.1.267>.

<sup>13</sup> Irfan Ardhani, 'Indonesia and The Criminalization of Illegal, Unregulated, and Unreported Fishing in The Global Level', *Jurnal Hubungan Internasional* 9, no. 2 (23 February 2021): 165–77, <https://doi.org/10.18196/jhi.v9i2.10374>.

perpetrators from In Islamic criminal law, theft is classified as Jarimah theft or sariqah, which involves the wrongful and covert taking of someone else's property.<sup>14</sup> Abdul Qadir Audah differentiates between minor and major theft based on the process of unlawfully taking property without the owner's consent. Minor theft is defined by two criteria that must both be present: if either criterion is missing, the theft cannot be considered minor. The elements of theft include several important factors. Firstly, the act of theft must be conducted secretly. Secondly, the property taken must be categorized as valuable, specifically Mal Mutaqawwim, and it must be movable. Additionally, the property must be stored in its designated place of safekeeping and must meet the nisab, which is the minimum value required for the theft to warrant legal punishment. Thirdly, the property must be owned by someone else, and lastly, there must be an intention that violates the law.<sup>15</sup>

To establish the proof of theft, three types of evidence are commonly used. First, witness testimony is crucial. For the accusation of theft to be substantiated, at least two male witnesses or one male witness alongside two female witnesses are required. If there are fewer than the specified number of witnesses, the perpetrator may not face legal sanctions. Imam Abu Hanifah has affirmed that such testimony remains valid, though this does not preclude the return of the stolen property or its value. Other scholars disagree with the expiration condition, thus the majority of scholars (except the Hanafi school) believe that the testimony is valid regardless of time limits.<sup>16</sup> Imam Abu Hanifah also maintains that the testimony, complaint, or claim from the owner of the stolen property should be accepted, a condition not universally accepted by other scholars. Second, confession can be used as evidence in theft cases. According to the Zhahiriyah school, a single confession is sufficient and does not need to be repeated. This view is also supported by Imam Malik, Abu Hanifah, and Shafi'i. However, the Shia Zaidiyah, Abu Yusuf, and Ahmad schools propose that the confession should be repeated.<sup>17</sup>

Third, in the Shafi'i school, oaths can be used as evidence of theft. In situations where there are no witnesses and the defendant does not confess to the crime, the victim (owner of the stolen property) may request that the defendant take an oath denying involvement. If the defendant refuses to swear, the oath is returned to the property owner. Should the owner agree to swear, the theft can be proven through the oath and the defendant's refusal to swear, potentially resulting in the defendant being sentenced to prison. A thief can face two types of penalties if proven guilty of theft. According to Imam Abu Hanifah and his followers, compensation for damages and the punishment of hand amputation are not compatible. They argue that a thief should not be liable for compensation if hand amputation is not applied, as the Quran specifically prescribes hand

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<sup>14</sup> Yuni Kartika and Andi Najemi, 'Kebijakan Hukum Perbuatan Pelecehan Seksual (Catcalling) Dalam Perspektif Hukum Pidana', *PAMPAS: Journal of Criminal Law* 1, no. 2 (23 April 2021): 1–21, <https://doi.org/10.22437/pampas.v1i2.9114>.

<sup>15</sup> Zuhaira Nadiyah Binti Zulkipli, 'Late Payment Penalty: Ta'widh And Gharamah Imposed To Debtor From The Shariah Perspective', *Yuridika* 35, no. 1 (21 October 2019): 187, <https://doi.org/10.20473/ydk.v35i1.15620>.

<sup>16</sup> Indah Kusuma Dewi, Hardin Hardin, and Asdin Asdin, 'Law Enforcement over Illegal Fishing to Protect Coral Reefs during the Covid-19 Pandemic in Buton', *Legality: Jurnal Ilmiah Hukum* 30, no. 1 (13 March 2022): 47–67, <https://doi.org/10.22219/ljih.v30i1.18127>.

<sup>17</sup> Rage Taufika, 'Latent Securitisation of Illegal, Unreported and Unregulated (IUU) Fishing in Indonesia', *Global: Jurnal Politik Internasional* 22, no. 1 (2 July 2020): 26, <https://doi.org/10.7454/global.v22i1.488>.



amputation for theft in Surah Al-Maidah, verse 38, without mentioning compensation for the loss caused by the theft.<sup>18</sup>

In contrast, Imam Shafi'i and Imam Ahmad believe that hand amputation and compensation can be imposed simultaneously. They argue that theft violates two rights: the right of Allah (SWT) and the right of individuals. The practice of hand amputation addresses the violation of Allah's right, while compensation serves to address the violation of human rights. Imam Malik and his followers assert that a thief should compensate for the value of the stolen goods and undergo hand amputation if the stolen items are no longer available. However, if the thief is financially unable to provide compensation, they are only subjected to hand amputation without the requirement for compensation. The punishment of hand amputation is based on the Quranic verse in Surah Al-Maidah, verse 38, which states: "As for the thief, both male and female, amputate their hands in recompense for what they committed as a deterrent [sent] from Allah. And Allah is Exalted in Might and Wise." This verse sets forth the prescribed penalty for theft, emphasizing the severity of the punishment as both a retribution for the crime and a divine decree.<sup>19</sup>

Shia Zaidiyyah, however, believes that the punishment of hand amputation can be waived by the victim or the authority (ulil amri) because it is considered a right of Allah. When a thief is caught, the initial punishment is the amputation of the right hand. If the thief commits theft again, the left foot is amputated. Scholars differ on the subsequent punishments for repeated offenses. Imam Abu Hanifah suggests that after the third theft, the thief should be punished with ta'zir (discretionary punishment) and imprisonment, while Imam Malik, Shafi'i, and Ahmad advocate for the amputation of the left hand<sup>20</sup>. For a fourth offense, the right foot is cut off. If the thief steals a fifth time, they face ta'zir and lifelong imprisonment, or until they repent. In relation to the case of theft in Nagari Padang Air Dingin, Imam Malik's view aligns with the local practices where the penalty includes compensation (Dhaman) rather than hand amputation. In this community, the thief is fined Rp. 10,000,000 rather than undergoing the prescribed physical punishment. This approach reflects a divergence from the traditional Islamic penal code, focusing on monetary compensation rather than physical mutilation.<sup>21</sup>

### 3.3. The Role of Datuak in Decision Making in Nagari Padang Air Dingin

This research will describe the general characteristics of Nagari Padang Air Dingin, located in the Sangir Jujuan District, Solok Selatan Regency. The objective is to gather and provide the necessary data and information to better understand the general conditions of the research location. This understanding will aid both the researcher and the readers in identifying the context in which the study is conducted. Nagari Padang Air Dingin is one of the five nagari in the Sangir Jujuan District of Solok Selatan Regency. Geographically, it is situated approximately 8 km north to south from

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<sup>18</sup> Dewi, Hardin, and Asdin, 'Law Enforcement over Illegal Fishing to Protect Coral Reefs during the Covid-19 Pandemic in Buton'.

<sup>19</sup> Rahman Zulfadli Lubis, Zul Anwar Ajim Harahap, and Ahmad Sainul, 'Pertimbangan Hakim Dalam Menjatuhkan Sanksi Tindak Pidana Pencurian Ringan Perspektif Hukum Pidana Islam', *Jurnal El-Thawalib* 3, no. 6 (27 December 2022): 1112–25, <https://doi.org/10.24952/el-thawalib.v3i6.6666>.

<sup>20</sup> Derek D. Rucker et al., 'On the Assignment of Punishment: The Impact of General-Societal Threat and the Moderating Role of Severity', *Personality and Social Psychology Bulletin* 30, no. 6 (June 2004): 673–84, <https://doi.org/10.1177/0146167203262849>.

<sup>21</sup> Muhammad Rizky Kaisar and Chepi Ali Firman Zakaria, 'Pertanggungjawaban Pidana Pelaku Yang Melakukan Tindak Pidana Dalam Keadaan Tidak Sadar Diri (Trance) Menurut Perspektif Hukum Pidana Indonesia Dan Hukum Pidana Islam', *Bandung Conference Series: Law Studies* 3, no. 1 (25 January 2023), <https://doi.org/10.29313/bcsls.v3i1.4944>.

the district center and about 15 km from Padang Aro, the administrative center of Solok Selatan Regency<sup>22</sup>. The area of Nagari Padang Air Dingin covers around 17,916 hectares, bordered by other nagari: Nagari Lubuk Malako and Padang Gantiang to the north, Nagari Lubuk Gadang Utara to the south, Nagari Gani and Nagari Talao to the east, and Nagari Simabu to the west. About 30% of the area is forested, while over 70% is used for residential and agricultural purposes. Consequently, most of the population relies on agriculture, particularly rice paddy and cash crops, while the remainder works as civil servants, traders, and miners.

The population of Nagari Padang Air Dingin is currently 2,774 people, administratively divided into four Jorong: Jorong Padang Air Dingin, Jorong Koto Japang, Jorong Sikayan Talang, and Jorong Buluh Kasok. The community is predominantly Minangkabau, comprising 99% of the population and consisting of seven clans: Tigo Lareh, Malayu Kampuang Dalam, Malayu Tagok, Malayu Tengah, Kampai, Sikumbang, and Panai. As is customary in Minangkabau society, each clan is led by a community leader (Datuak), reflecting the traditional hierarchical structure. This structure is summed up by the proverb: "Kamanakan barajo ka mamak, Mamak barajo ka pangulu, Pangulu barajo ka mupakat, Mupakat barajo ka alua jo patuik," emphasizing the interconnected roles of each leader within the community.

#### 4. Conclusion

Based on the data collected and presented in the previous chapter, the conclusions and recommendations are summarized as follows: The penalties for violating the prohibition of fishing in Nagari Padang Air Dingin, as stipulated in PERNA No. 09 of 2021 on the Pokmaswas Management of Prohibited Fish, are clearly defined. For individuals committing such violations within Nagari Padang Air Dingin, the penalty is set at Rp. 10,000,000 (Ten Million Rupiah). However, if the infraction involves individuals from outside the Nagari, the fine is increased to Rp. 20,000,000 (Twenty Million Rupiah). From an Islamic criminal law perspective, the penalty for prohibited fish theft traditionally falls under Hudud punishments, which include hand-cutting. Nonetheless, due to the non-fulfillment of nisab or conditions necessary for Hudud implementation, Ta'zir punishment is used as an alternative. Imam Malik's interpretation supports this approach by stating that if the offender is subject to financial compensation (Dhaman), the Hudud punishment of hand-cutting does not apply. This approach aligns with the legal and practical standards set in Nagari Padang Air Dingin.

To enhance the global understanding of how traditional Islamic criminal law intersects with local legal practices, it is recommended that further comparative studies be conducted. These studies should focus on the application of Hudud and Ta'zir punishments across different cultural and legal contexts. Such research could contribute significantly to global discussions on integrating religious laws with modern legal frameworks, offering insights into how diverse communities balance tradition and contemporary legal standards. This would not only enrich the field of comparative law but also provide valuable lessons for policymakers and legal practitioners worldwide on accommodating religious principles within diverse legal systems while addressing local challenges and needs.

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<sup>22</sup> Handrawan et al., 'Penyelesaian Perkara Pencurian Ikan Pada Masyarakat Adat Sarano Wali Di Kecamatan Binongko Kabupaten Wakatobi', *Halu Oleo Law Review* 7, no. 2 (29 September 2023): 236–55, <https://doi.org/10.33561/holrev.v7i2.30>.



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