

Marind Customary Law Practices in Natural Resource Management in Southern Papua

ADV. Neri Aslina

STAI Ibnu Sina Batam

Email: neriaslina@yahoo.co.id

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ABSTRACT

This research examines Marind customary law as a normative foundation for sustainable natural resource governance in Southern Papua and evaluates its potential to contribute structurally to Indonesia's national legal development. Using a normative legal research method, the study analyzes the philosophical, institutional, and jurisdictional principles embedded in Marind eco jurisprudence and assesses their compatibility with statutory environmental law. Results show that Marind norms regulate resource extraction through relational accountability, collective custodianship, and adaptive seasonal management, which have proven effective in biodiversity protection. However, their legal authority remains subordinated to state licensing regimes, resulting in ecological and cultural vulnerability when confronted with external investment interests. The study concludes that integrating Marind jurisprudence through enforceable delegated jurisdiction and the incorporation of customary principles into statutory legislation would strengthen Indonesia's sustainability law paradigm and advance legal pluralism.

Keywords: customary law, ecological governance, legal pluralism, Marind, sustainability

INTRODUCTION

The discourse on sustainable natural resource governance in Indonesia has increasingly highlighted the significance of indigenous legal systems, which offer community centered mechanisms of stewardship anchored in ecological ethics. Among these systems, the customary law of the Marind people in Southern Papua presents a sophisticated regulatory framework that governs land, water, forest, and wildlife through deeply spiritual norms and lineage based territoriality. Marind cosmology conceptualizes land not as a commodity but as a shared living entity that connects ancestors, humans, and non human beings, establishing moral obligations to protect ecological balance as the foundation of social order.¹

Legal studies on sustainability have traditionally privileged the state based regulatory architecture, yet the persistence of environmental degradation under statutory regimes indicates structural limitations in formal governance. Conversely, customary institutions across Papua have persistently demonstrated efficacy in preserving biodiversity through mechanisms such as Sasi, territorial lineage mapping, and kinship based enforcement of sanctions. In the context of Marind communities, the prohibition of extractive exploitation without clan consensus has functioned as a

¹ Azis, Y. Z., and Muddin, A. A., "Revitalisasi Hukum Waris Adat dalam Masyarakat Marind: Penguatan Nilai Lokal di Papua Selatan," *Jurnal Hukum Cassowary* 2, no. 1 (2025): 22-33



sophisticated environmental safeguard that prevents territorial fragmentation and natural resource depletion.²

These features position Marind customary law as more than an ethnographic artifact of cultural identity; rather, it constitutes a viable legal method of ecological governance that is deeply informed by context specific ecological knowledge. Natural resource stewardship under Marind norms emphasizes relational accountability, where misuse of land results in social and spiritual sanctions that ensure compliance without carceral punishment. This restorative approach stands in contrast to Indonesia's statutory environmental regime which prioritizes administrative compliance and punitive sanctions but often fails to accommodate local ecological wisdom or protect communities from external extractive projects.³

Sustainability theory increasingly recognizes that environmental protection cannot rely solely on technocratic regulation and requires cultural legitimacy to achieve long term compliance. The Marind example illustrates this principle by integrating ecological responsibility as a moral duty inherent to kinship and generational inheritance. This approach differs substantially from Western legal concepts of resource ownership which emphasize exclusivity and transferability, because Marind legal identity emerges from collective custodianship rather than individualized entitlement. The capacity of Marind customary institutions to regulate access and exploitation without central authority demonstrates an embedded model of decentralized environmental democracy that reflects a culturally mediated form of ecological sovereignty.⁴

However, despite its proven ecological effectiveness, the legal position of Marind customary governance remains precarious under the Indonesian national legal framework. Recognition of indigenous resource rights continues to be conditional, fragmented, and procedurally burdensome. In practice, this ambiguity facilitates the encroachment of external actors, including plantation expansion, mining concessions, and infrastructure projects designated as national strategic priorities. Legal restrictions limit Marind authority to the cultural domain, reducing it to a subordinate regime within a hierarchy that privileges statutory law over community based regulation. This subordination constrains the translation of customary environmental principles into binding legal protection.⁵ Scholarly discussions to date have explored Marind wisdom largely in anthropological terms, emphasizing cultural symbolism, myth, and social identity without fully examining its jurisprudential implications for national law. Prior research by Lestari et al. focused on Sasi only as a conservation culture rather than as a regulatory instrument with enforceable obligations. Maruapey et al. analyzed customary marine protection but did not evaluate the compatibility between customary and statutory enforcement provisions. Meanwhile, Buana and Mamonto compared Indonesian and Australian models of customary environmental management without formulating a framework for legal integration into national legislation. These studies illuminate ecological value yet do not translate Marind environmental jurisprudence into normative legal reform.

² Lestari, P. A. et al., "Kearifan Lokal dalam Pelestarian Alam: Implementasi Adat Sasi pada Suku-suku di Bumi Anim Ha," *Jurnal Adat dan Budaya Indonesia* 7, no. 1 (2025): 72–77

³ Maruapey, A. et al., "Kearifan Lokal 'Kabus' dalam Perlindungan Sumberdaya Alam," *Jurnal Noken* 11, no. 1 (2025): 295–307

⁴ Mentansan, G. et al., "Sasi Local Wisdom as a Cultural Capital for Sustainable Tourism Development," *International Journal of Green Tourism Research and Applications* 5, no. 1 (2023): 52–59.

⁵ Sama, A. H., "Komitmen Hukum Nasional atas Perlindungan Hak Ulayat Masyarakat Adat Merauke," *Prosiding Seminar Nasional Hukum* 3 (2024): 69–82

Therefore, the present article offers novelty by conceptualizing Marind customary law as a philosophical and juridical foundation for sustainable legal development in Indonesia. Rather than positioning it merely as a local conservation practice, this study proposes that Marind's relational model of resource governance constitutes an alternative legal paradigm that could inform national environmental legislation. The goal of this research is to articulate how the normative principles and institutional structures of Marind natural resource management can be incorporated into Indonesian national law to strengthen environmental protection, promote legal pluralism, and ensure justice for indigenous communities across the archipelago.⁶

METHODS

This study employs a normative legal research method that examines primary and secondary legal materials to formulate theoretical integration between Marind customary law and national environmental legislation. The analysis is grounded in statutory review, doctrinal interpretation, and conceptual comparison to identify the alignment and friction between ecological jurisprudence in Marind traditions and Indonesia's positive law.⁷

The research approach includes three analytic stages: first, identifying the substantive norms that regulate land, forest, water, and wildlife within Marind customary law; second, evaluating the constitutional and statutory provisions governing indigenous rights and natural resources; third, constructing a conceptual framework for integrating Marind ecological jurisprudence into national legal development. Legal reasoning is combined with theoretical perspectives on sustainability, legal pluralism, and indigenous sovereignty to ensure a holistic examination of normative compatibility.⁸

RESULTS AND DISCUSSION

Philosophical Foundations of Marind Customary Law in Ecological Governance

Marind ecological jurisprudence is grounded in a worldview that defines nature as a living social entity rather than a passive biophysical object, where forests, rivers, wetlands and wildlife are treated as relatives reciprocally linked to humans through ancestral lineage. In this normative structure, land does not represent transferable economic property but a component of identity that embodies genealogy, responsibility and spirituality, and violating customary rules of extraction is understood not only as material exploitation but as a disruption of the moral order that binds humans to the ecosystem. The legal mandate to protect nature is thus not built on statutory coercion but on collective memory and ritual obligation, which make environmental responsibility non negotiable, and this is precisely the philosophical distinction between Marind environmental cosmology and the resource commodification that emerges within liberal economic legal orders.⁹

This philosophical foundation produces a restorative legal orientation, where the objective of adjudication is not to punish violators but to restore relational harmony among humans and non humans. When a member of a clan cuts sago trees without

⁶ Fahmi, M. S. et al., "Preserving Ethnobotany in Wasur National Park South Papua Through Intellectual Property Rights Protection," *IOP Conference Series: Earth and Environmental Science* 1471, no. 1 (2025): 012055.

⁷ Marzuki, P. M. (2017). *Penelitian hukum* (Edisi Revisi). Jakarta: Kencana Prenada Media Group.

⁸ Soekanto, S., & Mamudji, S. (2019). *Penelitian hukum normatif: Suatu tinjauan singkat*. Jakarta: RajaGrafindo Persada.

⁹ Azis, Y. Z., and Muddin, A. A., "Revitalisasi Hukum Waris Adat dalam Masyarakat Marind: Penguatan Nilai Lokal di Papua Selatan," *Jurnal Hukum Cassowary* 2, no. 1 (2025): 22-33

collective agreement or hunts outside seasonal restrictions, the violation is interpreted as a break in relational ethics that must be healed through reparative actions and ritual cleansing to realign bonds between people and ecological spirits. Justice here is performed through accountability and healing rather than criminality, creating a moral preventive system in which fear of ecological disharmony becomes a stronger deterrent than fear of imprisonment or financial penalties. This approach challenges the belief that conservation requires formal sanctions and reveals that environmental compliance becomes deeply internalized when nature is embedded in cultural identity and kinship obligations.¹⁰

Marind customary environmental philosophy therefore represents a coherent legal system that aligns ecological sustainability with moral agency, in contrast to statutory resource law which prioritizes uniformity, predictability and market allocation of resource rights. While the state frames nature as a domain of extraction managed through bureaucratic permits and administrative supervision, Marind norms treat nature as an ancestor and a partner in social reproduction, meaning the well being of the ecosystem is interdependent with the well being of the community. The philosophical implication for national legal development is that legal pluralism is not merely symbolic recognition of tradition but a necessity for environmental survival because the cultural legitimacy embedded in customary law generates automatic compliance rooted in collective identity rather than punitive enforcement.¹¹

Institutional Enforcement and Adaptive Governance in Marind Natural Resource Regulation

Institutionally, Marind environmental governance operates through a system in which authority is assigned to elders, ritual specialists and clan guardians who hold custodial responsibility over particular ecological spheres such as rivers, wetlands, sago groves and hunting territories. Their authority arises from ancestry rather than political power or bureaucratic appointment, which ensures that leadership is tied to ecological responsibility rather than resource exploitation. Compliance is maintained through constant communal supervision and spiritual accountability rather than through surveillance or policing, and violations produce obligations of compensation, reconciliation and ritual restoration that function both as sanctions and as environmental protection tools. This indigenous legal architecture prevents deforestation, overfishing and habitat destruction not by restricting communities but by obligating them to preserve the ecosystem that underpins collective identity and survival.¹²

Marind enforcement also includes preventative ecological management in which harvesting rules shift dynamically according to environmental conditions rather than legal rigidity. The community rotates extraction locations, imposes seasonal closures, conducts habitat restoration rituals and suspends all harvesting activities in areas showing early signs of ecological decline. This adaptive approach transforms nature into a legal subject whose needs dictate the regulatory cycle instead of human economic demands. When conflict arises, adjudication is performed in consensus based councils where wrongdoers, victims and affected clans negotiate ritual and material reparations

¹⁰ Lestari, P. A. et al., "Kearifan Lokal dalam Pelestarian Alam: Implementasi Adat Sasi pada Suku-suku di Bumi Anim Ha," *Jurnal Adat dan Budaya Indonesia* 7, no. 1 (2025): 72–77

¹¹ Buana, A. P., and Mamonto, M. A. W. W., "The Role of Customary Law in Natural Resource Management: A Comparative Study between Indonesia and Australia," *Golden Ratio of Mapping Idea and Literature Format* 3, no. 2 (2023): 167–186.

¹² Maruapey, A. et al., "Kearifan Lokal 'Kabus' dalam Perlindungan Sumberdaya Alam," *Jurnal Noken* 11, no. 1 (2025): 295–307

that heal both social and ecological relationships. This reduces the likelihood of retaliation or prolonged dispute and ensures that the legitimacy of the decision is based on moral acceptance rather than external authority.¹³

Table 1 Institutional Differences between State Environmental Law and Marind Customary Governance

| Dimension | State Environmental Law | Marind Customary Governance |
|------------------------|---|---|
| Source of authority | National sovereignty | Ancestral legitimacy and clan lineage |
| Legal form | Codified written rules | Oral customary norms |
| Enforcement model | Police, prosecution, fines and imprisonment | Restorative sanctions and ritual reconciliation |
| Decision making | Judge or bureaucracy | Elders' council and community consensus |
| Goal of justice | Legal certainty and compliance | Ecological balance and social harmony |
| Ownership concept | Exclusive private or state ownership | Collective custodianship and lineage rights |
| Ecological flexibility | Low, slow adaptation | High, seasonal and responsive to environment |

The evidence from institutional practice shows that Marind environmental governance forms an autonomous ecological legal order capable of regulating resource extraction and preserving biodiversity independently of the state. This contradicts the assumption that conservation needs centralized bureaucracy and instead demonstrates that environmental compliance increases when communities perceive nature as a moral relative rather than a resource commodity. Because of that, the argument for national legal reform is not to replace statutory law with customary law but to reconfigure the hierarchy of legal recognition so that customary authority in ecological governance holds enforceable standing instead of remaining subordinate to state licensing regimes.¹⁴

Integrating Marind Eco-Jurisprudence into Indonesia's National Legal Framework

The central challenge for integrating Marind eco jurisprudence into Indonesian legislation lies in the asymmetrical hierarchy of the legal system, where customary law is constitutionally acknowledged but subordinated to statutory law and regulatory instruments of the state. This structural asymmetry forces indigenous governance into a cultural rather than juridical category, meaning Marind resource regulations retain normative authority in their own domain but lack enforceability when confronted with plantation concessions, state permits or national strategic projects. For sustainable legal pluralism to function substantively rather than symbolically, integration must begin with equal recognition of customary institutions as autonomous environmental regulators rather than as alternative dispute resolution mechanisms attached to the state. Without this equal footing, Marind environmental governance remains valid only

¹³ Mentansan, G. et al., "Sasi Local Wisdom as a Cultural Capital for Sustainable Tourism Development in Raja Ampat Regency," *International Journal of Green Tourism Research and Applications* 5, no. 1 (2023): 52–59.

¹⁴ Sama, A. H., "Komitmen Hukum Nasional atas Perlindungan Hak Ulayat Masyarakat Adat Merauke terhadap Proyek Strategis Nasional (PSN) Merauke," *Prosiding Seminar Nasional Hukum* 3 (2024): 69–82

internally but vulnerable externally, which contradicts the constitutional mandate to respect indigenous identity and traditions.¹⁵

Legal integration requires shifting from a model of conditional recognition toward a model of enforceable jurisdiction in which Marind environmental decisions gain binding legal effect in cases involving land access, resource extraction and ecosystem protection. One feasible structure is delegated environmental jurisdiction, where state authorities acknowledge customary rulings as final within ecological territories governed by indigenous norms, with state courts retaining review authority only for procedural violations involving abuse of power or violations of rights. This model aligns with the doctrinal logic of legal pluralism and prevents juridical conflict because it does not erase the state's sovereignty but reconfigures it to share environmental jurisdiction with customary governance in areas where ecological decisions are grounded in ancestral legitimacy. Doing so will reduce litigation involving indigenous lands, prevent overlapping permits and shift environmental supervision toward culturally grounded decision making that has proven conservation success.¹⁶

A long term reform strategy further requires substantive insertion of Marind principles into national natural resource legislation so that ecological relations rather than extractive economic interests serve as the foundational philosophy of environmental governance. Incorporating norms such as collective custodianship, relational accountability, adaptive seasonal management and restorative sanctions would enable statutory law to protect biodiversity while also preserving cultural survival. This approach would produce a multidimensional model of conservation that integrates constitutional rights, sustainability theory and indigenous jurisprudence rather than treating them as separate legal domains. If such integration is realized, Indonesia can evolve from a regulatory system driven by permits and approvals toward a sustainability jurisprudence grounded in ecological reciprocity, where indigenous law is not tolerated but contributes structurally to legal development.¹⁷

CONCLUSIONS

Marind customary law reflects a sophisticated environmental jurisprudence that regulates resource extraction not through coercive sanctions but through moral responsibility, ancestral accountability and ecological reciprocity. Its institutional mechanisms and adaptive regulatory cycles have proven their effectiveness in conserving biodiversity and preventing resource depletion because ecological protection is embedded in identity rather than enforced externally. The legal philosophy embedded in the Marind worldview positions nature as kinship rather than commodity, aligning justice with sustainability and demonstrating that environmental compliance becomes stable when grounded in cultural legitimacy and intergenerational duty rather than fear of punishment.

To ensure long term ecological survival and legal justice, Indonesia must progress from partial to structural recognition of indigenous environmental governance. Integrating Marind eco jurisprudence into statutory frameworks through enforceable delegated jurisdiction and the transplantation of customary principles into natural

¹⁵ Dewi, R., "Hijacking adat recognition through the establishment of new Customary Community Council in Papua, Indonesia," *Asia & the Pacific Policy Studies* 4, no. 3 (2017): 555–568

¹⁶ Ruslak Hammar, R. K., Wanma, G. F., and Balubun, W. H., "Analysis of Regional Regulation in Customary Law and Rights of Customary Communities: Case in Concerning Coastal Zone Zoning in West Papua," SSRN 4201031

¹⁷ Buana, A. P., and Mamonto, M. A. W. W., "The Role of Customary Law in Natural Resource Management: A Comparative Study between Indonesia and Australia," *Golden Ratio of Mapping Idea and Literature Format* 3, no. 2 (2023): 167–186.

resource legislation would create a model of legal sustainability rooted in both constitutional recognition and cultural authenticity. Such reform does not weaken state sovereignty but strengthens it by reducing conflict, eliminating overlapping concessions and building environmental protection on a normative foundation that communities willingly uphold. Through this approach, Indonesia can transform indigenous law from a peripheral symbol into a central pillar of national legal development in the age of ecological crisis.

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