



Customary Sasi Law in Natural Resource Governance in Maluku: A Legal Pluralism Analysis

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ARTICLE INFO	ABSTRACT
Article history: Submitted: August 27, 2026 Final Revised: Sept. 16, 2026 Accepted: September 20, 2026 Published: September 28, 2026 Keywords: Customary Law; Sasi; Living Law; Legal Pluralism; Natural Resources Governance.	Background: The existence of <i>sasi</i> in Maluku demonstrates that customary law plays an important role in regulating the utilization and protection of natural resources. However, the sustainability of these functions faces challenges concerning legal status, the boundaries of authority, and institutional relations with state law. Objective: This study aims to analyze the legal status and legitimacy of <i>sasi</i>, the sustainability of its regulatory and conservation functions, and the harmonization of customary law and state law without undermining the institutional characteristics of customary law communities. Methods: This study employs a normative juridical approach using statutory, conceptual, and case approaches. Legal materials were analyzed through content analysis and critical juridical interpretation from the perspectives of <i>living law</i>, legal pluralism, and <i>responsive law</i>. The literature search identified 60 records; after removing 6 duplicates, screening 8 irrelevant records, and excluding 4 sources after full-text assessment, 42 scholarly publications remained for analysis, alongside relevant primary legal materials. Results: <i>Sasi</i> possesses social legitimacy as <i>living law</i>, but has not yet received full formal recognition or adequate operational authority. Its regulatory and conservation functions are based on access restrictions, the regulation of closed and open seasons, customary monitoring, and community compliance. The principal gaps between <i>sasi</i> and state law concern the clarity of authority, institutional status, and interinstitutional coordination. Conclusion: The sustainability of <i>sasi</i> requires operational legal recognition, clearly defined spheres of authority, and institutional coordination through a coordinated legal pluralism model.
	
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INTRODUCTION

The geographic characteristics of the Maluku Archipelago have fostered close relationships between local communities and terrestrial, coastal, and marine resources. These relationships have given rise to various local norms and institutions, one of which is *sasi*, which regulates resource utilization through prohibitions or restrictions based on spatial and temporal dimensions, the type of resource concerned, and prescribed procedures. From a legal perspective, *sasi* cannot be regarded merely as a tradition or customary practice, but also as a normative institution that performs regulatory, monitoring, and resource-protection functions. [Alvayedo and Erliyana \(2022\)](#) demonstrate that *sasi* is closely associated with the management and protection of both terrestrial and marine natural resources. This position can be understood through Ehrlich's concept of *living law*, namely law that exists within society and derives its validity from social acceptance, community legitimacy, and institutional practices that sustain compliance with established norms. Accordingly, the continued validity of *sasi* is determined not solely by its formal recognition under state regulations, but also by the extent to which customary norms are accepted, practiced, and maintained by the community.

The perspective of *legal pluralism* further clarifies the position of *sasi* in natural resource governance, as state law and customary law may coexist within the same social space. Under such conditions, *sasi* may interact with state law through complementary relationships, processes of negotiation, or even potential jurisdictional tensions. [Matuankotta and Holle \(2022\)](#) demonstrate that although the Constitution and various sectoral regulations provide a legal basis for recognizing Indigenous communities in Maluku, the implementation of such recognition continues to

encounter challenges in natural resource governance. Therefore, the legal dimensions of *sasi* cannot be adequately examined solely from the existence of customary norms but must also be considered in terms of the relationship among customary norms, customary institutions, and the state legal system. From the perspective of *responsive law* developed by Nonet and Selznick, law should not be limited to controlling social conduct through formal rules but should respond to social needs and be oriented toward the substantive realization of legal objectives. This framework is relevant for assessing whether the recognition of *sasi* can evolve into a responsive legal mechanism that addresses community needs and ecological changes without undermining the institutional character of customary communities.

Normatively, the existence of *sasi* is grounded in the national legal system through the recognition of Indigenous communities and their traditional rights. Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia affirms the recognition and respect of customary law communities and their traditional rights insofar as they remain in existence, conform to societal development, and are consistent with the principles of the Unitary State of the Republic of Indonesia. This recognition is reinforced by Article 28I paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which affirms respect for cultural identity and the rights of traditional communities. In the field of environmental protection, Law No. 32 of 2009 on Environmental Protection and Management also provides a legal basis for incorporating local wisdom into the implementation of environmental protection and management. Nevertheless, this normative framework has not comprehensively defined the boundaries of authority, scope of jurisdiction, or institutional standing of customary institutions when *sasi* norms interact with state authority in natural resource management. Thus, the underlying problem is not merely the absence of a legal basis, but rather the lack of clarity regarding the allocation of authority and institutional mechanisms governing the relationship between customary law and state law. This condition becomes increasingly complex when the implementation of *sasi* intersects with sectoral regulations and spatial planning policies that exercise different forms of authority over the same resources.

Within this context, customary institutions such as the *kewang* play an important role in ensuring the continued validity of *sasi* norms through monitoring, the granting of permissions, control over resource utilization, and the enforcement of community compliance. However, the existence of norms and institutions does not automatically guarantee the strength of customary legal authority. A distinction must be made between the normative recognition of customary law and the institutional capacity required to perform regulatory functions effectively. This issue underscores the importance of distinguishing between normative legitimacy, namely the acceptance and recognition of the existence of *sasi*, and substantive authority, namely the capacity of customary institutions to establish, monitor, and enforce norms within clearly defined spheres of jurisdiction. From a *legal pluralist* perspective, this relationship indicates that the sustainability of *sasi* is highly dependent on the capacity of customary law to adapt to state law. From the perspective of *responsive law*, this relationship should ideally produce a governance framework that is not merely formally orderly but also responsive to community needs, ecological sustainability, and justice in resource utilization.

Previous studies indicate that research on *sasi* has primarily developed within the fields of ecology, institutional governance, and community-based resource management. Maatoke, Ludji, and Adi (2024), for example, conceptualize *sasi* as a local wisdom practice embodying ecological values, environmental balance, and moral responsibility. Suryawati et al. (2025) focus on the implementation of *sasi* in sea cucumber management in Werka Village and demonstrate its orientation toward resource sustainability. Meanwhile, Purba et al. (2025) identify relationships between the implementation of *sasi* and fish-resource conditions, coral cover, fisheries income, and food security, while showing that its effectiveness is influenced by social cohesion, the legitimacy of the *kewang*, and traditional ecological knowledge. Dewi et al. (2026) have begun to shift attention toward the legal dimension by positioning *sasi* as *living law* and demonstrating its vulnerability to constitutional provisions, sectoral regulations, and spatial planning policies, while also revealing variations in institutional capacity across regions in Maluku. Thus, previous studies have made important contributions, but each has tended to emphasize a particular dimension and has not yet integrated these dimensions into a comprehensive legal analysis.

Comparatively, these studies can be categorized into three principal tendencies. First, ecologically oriented studies emphasize the conservation value and sustainability of *sasi*, but have not sufficiently explained how these values acquire binding force as legal norms. Second, institutional and community-based management studies highlight the roles of the *kewang*, social cohesion, and community participation, but have not systematically examined the limits of customary institutional authority in relation to state law. Third, studies that have begun to adopt a *living law* perspective have established the position of *sasi* as law that lives within society, but have not yet integratively examined the relationship among normative legitimacy, institutional capacity, jurisdictional authority, and legal responsiveness in explaining the sustainability of *sasi*. These limitations indicate a research gap concerning the need to connect the regulatory dimensions of *sasi*, the legitimacy of customary institutions, and the position of customary law within the national legal system as interrelated legal issues. This synthesis further demonstrates that the central issue is not merely

whether *sasi* continues to be practiced, but how it can maintain its normative authority amid legal pluralism and transformations in natural resource governance.

Against this backdrop, the novelty of this study lies in its effort to conceptualize *sasi* as a legal institution through the interrelationship among *living law*, *legal pluralism*, and *responsive law*. Rather than treating *sasi* solely as a form of local wisdom with ecological value, this study examines it as a legal norm whose legitimacy derives from community acceptance, the existence of customary institutions, mechanisms of monitoring and compliance, and its interaction with state law. This approach enables a more comprehensive analysis of the distinction between the normative recognition of customary law and the substantive effectiveness of customary institutional authority. Within this framework, the sustainability of *sasi* is understood as an issue involving not only ecological benefits but also clarity of jurisdiction, institutional legitimacy, the capacity to enforce norms, and the ability of customary law to respond to social and ecological changes. Accordingly, this study extends the analysis of *sasi* beyond conservation and resource-management approaches toward an examination of the relationship between customary law and state law within a framework of responsive legal pluralism.

On this basis, this study aims to analyze the role of customary law in maintaining *sasi* as a mechanism for the management and protection of natural resources among island communities in Maluku. The study addresses three principal legal questions: first, what is the status and legitimacy of *sasi* as customary law within the national legal system; second, how does customary law sustain the regulatory and conservation functions of *sasi* amid social and ecological changes; and third, how can the relationship between customary law and state law be developed to strengthen the sustainability of *sasi* without undermining the institutional character of Indigenous communities? This study employs a library research methodology and a juridical-conceptual approach to legislation, legal doctrines, and recent literature on customary law, *sasi*, legal pluralism, and natural resource management. Theoretically, this study contributes to the development of scholarship on customary law and legal pluralism by clarifying the relationship among normative recognition, institutional legitimacy, and the substantive authority of customary institutions. Practically, the findings are expected to provide an analytical basis for policymakers in formulating clearer frameworks for the recognition and regulation of customary legal authority, thereby promoting legal certainty, institutional legitimacy, and sustainable natural resource governance that is harmonized between customary law and state law.

METHOD

This study employed library research using a normative juridical method to analyze the legal status, legitimacy, authority, and sustainability of the application of *sasi* customary law in the governance and protection of natural resources in Maluku. The study adopted a statutory approach, a conceptual approach, and a case approach. The statutory approach was used to analyze legal provisions concerning Indigenous peoples, traditional rights, natural resource management, environmental protection, and the recognition of local wisdom. The conceptual approach was employed to examine the concepts of customary law, *living law*, legal pluralism, Indigenous peoples' authority, institutional legitimacy, and ecological sustainability. The case approach was selectively applied to analyze Constitutional Court Decision No. 35/PUU-X/2012 insofar as it relates to the legal status of Indigenous peoples, traditional rights, customary territories, and the relationship between customary law and state law.

The legal materials consisted of primary, secondary, and tertiary legal materials. Primary legal materials included the 1945 Constitution of the Republic of Indonesia, Law No. 32 of 2009 on Environmental Protection and Management, Law No. 1 of 2014 on Amendments to Law No. 27 of 2007 on the Management of Coastal Areas and Small Islands, Law No. 6 of 2023, Maluku Provincial Regulation No. 16 of 2019 on the Administration of Customary Villages, Constitutional Court Decision No. 35/PUU-X/2012, and other relevant laws and regulations. Secondary legal materials consisted of scholarly journal articles, conference proceedings, books, research reports, and academic publications related to *sasi*, customary law, *living law*, legal pluralism, customary institutional authority, natural resource governance, and ecological sustainability. Tertiary legal materials included legal dictionaries, encyclopedias, and other reference sources.

The literature search was conducted through Google Scholar, GARUDA, Scopus, and university library collections. The final search was conducted on July 11, 2026, and focused on publications from 2022–2026, while primary legal materials and classical theoretical works were retained when they had fundamental normative and conceptual relevance. The search strategy employed combinations of keywords in Indonesian and English, including "*sasi*," "*sasi customary law*," "*customary law*," "*living law*," "*legal pluralism*," "*Indigenous peoples*," "*customary institution*," "*natural resource governance*," and "*environmental protection*." The search strings also incorporated Boolean combinations, including ("*sasi*" OR "*sasi customary law*" OR "*sasi law*" OR "*sasi adat*") AND ("*customary law*" OR "*adat law*" OR "*Indigenous peoples*" OR "*customary community*") AND ("*natural resource governance*" OR

"natural resource management" OR "environmental protection"), as well as combinations related to *living law*, legal pluralism, *kewang*, and natural resource governance.

The initial search yielded 60 records. All records were consolidated and screened based on title, author, publication year, DOI, and other bibliographic information to identify publications appearing more than once across the search sources. A total of 6 duplicate records were removed, resulting in 54 unique records for the screening process. The screening stage was conducted based on titles and abstracts, taking into consideration the relevance of each source to the research object, legal focus, study area, and research questions.

During the title and abstract screening stage, 8 records were excluded because they did not have a direct relevance to the research focus. The excluded sources included studies focused on spatial mapping of *sasi*, commodity production, resource biology, education, ecotourism, Indigenous communities outside Maluku, general national conservation policies, or social mechanisms of Indigenous communities that did not specifically analyze *sasi* as a legal institution. Accordingly, 46 sources proceeded to the full-text assessment stage.

The full-text assessment was conducted to evaluate substantive relevance, methodological suitability, adequacy of legal argumentation, verifiability of bibliographic information, and the contribution of each source to the three research focuses: the legal status and legitimacy of *sasi*, the sustainability of its regulatory and conservation functions, and the harmonization of customary law and state law. A total of 4 sources were excluded at this stage because, although substantively relevant, their research approaches or analytical focuses were inconsistent with the principal corpus of the normative legal study. These sources primarily employed empirical legal research, phenomenological approaches, case studies of governmental implementation, or broader studies of customary environmental law that did not specifically analyze the legal status of *sasi* in Maluku.

Accordingly, the selection process resulted in 42 scholarly publications as the final corpus, consisting of 40 scholarly journal articles and 2 conference proceedings. This corpus served as the primary source of secondary legal materials. Primary legal materials were not included in the total of 42 because they were analyzed separately on the basis of their normative status and legal authority. This distinction was maintained to ensure consistency between the corpus of scholarly publications and the primary legal materials employed in the juridical analysis.

The quality of the sources was assessed qualitatively based on five aspects: the authority and credibility of the publisher, bibliographic completeness and traceability, substantive relevance, methodological or argumentative clarity, and the consistency of evidence or reasoning. For primary legal materials, the assessment was based on their formal status, position within the hierarchy of laws and regulations, authority of the issuing institution, and juridical relevance. Sources that did not meet the standards of relevance, verifiability, or academic and juridical strength were excluded from the analytical corpus.

Subsequently, all selected sources were analyzed through content analysis and critical juridical interpretation from the perspective of legal pluralism. The legal materials were classified according to legal status, legitimacy, authority, institutional position, mechanisms of recognition, oversight, compliance, and the relationship between customary law and state law. The resulting mapping was then compared to identify patterns of convergence, divergence, overlap, and potential conflict between customary legal norms and state law. This analysis provided the basis for developing a normative-conceptual synthesis concerning the strengthening of *sasi* customary law through legal harmonization, the strengthening of customary institutions, clarification of the boundaries of authority, and recognition of the participation of Indigenous peoples in natural resource governance in Maluku.

RESULTS

1. Legal Status and Juridical Legitimacy of Customary Sasi Law within the National Legal System

The analysis of primary and secondary legal materials identifies *sasi* as a customary normative institution that regulates the relationship between communities and natural resources through rules concerning the objects of protection, territorial boundaries, periods of prohibition and opening, authorized actors, monitoring mechanisms, and consequences for violations. The analysis further indicates that the operation of *sasi* is not dependent on customary rules alone, but on the interaction among customary norms, customary institutions, community acceptance, and the broader legal framework governing natural-resource management. In this study, these characteristics are interpreted through the established theoretical perspective of living law, particularly Eugen Ehrlich's understanding of law as norms that operate within social relations and are sustained by social acceptance and institutional practice (Ehrlich, 1936). The concept is used here as a theoretical lens for interpreting the continuing normative relevance of *sasi*, rather than as an empirical claim about all customary communities in Maluku.

At the constitutional level, Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia provides the principal normative basis for the recognition and respect of customary law communities and their traditional rights. The provision does not expressly mention *sasi*; therefore, its legal relevance to *sasi* is derived from

the recognition of customary communities and their traditional rights insofar as the relevant community and its customary practices continue to exist and satisfy the constitutional conditions. Article 28I paragraph (3) further establishes constitutional recognition of cultural identity and the rights of traditional communities. Based on the legal materials examined, these provisions establish a general constitutional foundation for the existence of customary institutions, but do not in themselves determine the specific scope of authority exercised by institutions implementing sasi.

At the statutory level, Law No. 32 of 2009 on Environmental Protection and Management recognizes local wisdom and customary law communities within environmental governance. Law No. 1 of 2014 provides legal space for the recognition and participation of customary law communities in the management of coastal areas and small islands. Maluku Provincial Regulation No. 16 of 2019 on the Arrangement of Customary Villages provides a regional institutional framework relevant to the existence and governance of customary institutions. The analysis therefore identifies a layered form of legal recognition: constitutional recognition provides a general basis for customary rights and the existence of customary communities, statutory regulation provides sectoral recognition and participation, and regional regulation provides an institutional framework within the regional governance structure.

The analysis also distinguishes between internal customary legitimacy and formal juridical recognition. Internal legitimacy refers to the acceptance of sasi norms by the customary community and to the functioning of customary institutions that supervise and implement those norms. Formal juridical recognition, by contrast, concerns the extent to which customary institutions and their authority are acknowledged within the state legal system. [Purba et al. \(2025\)](#) associate the effectiveness of sasi with social cohesion, the legitimacy of kewang authority, and the adaptive capacity of traditional ecological knowledge, indicating that the practical validity of customary regulation is closely related to community acceptance. [Dewi et al. \(2026\)](#), however, identify limitations in incorporating customary decisions into formal administrative and legal arrangements, particularly in licensing, spatial planning, and natural-resource governance. On the basis of these materials, the analysis finds that the continued social operation of sasi does not necessarily correspond to an equivalent level of formal juridical authority.

To clarify this distinction, the study uses existential recognition and operational recognition as analytical distinctions developed from the synthesis of the reviewed legal materials. *Existential recognition* refers to recognition of the existence of customary law communities, customary norms, customary territories, and customary institutions within the legal order. *Operational recognition* refers to the extent to which such recognition is translated into an identifiable institutional position, functional authority, jurisdictional scope, and workable mechanisms through which customary institutions may exercise their functions in interaction with state institutions. These terms are not presented as established legal theories or statutory categories, but as analytical constructs formulated in this study to organize the distinction between recognition of existence and recognition of the capacity to exercise customary authority.

The principal result of the first analysis is therefore that the legal position of sasi can be characterized as recognized in principle but differentiated in its juridical operation. Its normative existence is supported by constitutional, statutory, and regional legal provisions, while the concrete authority of customary institutions remains dependent on the extent of legal recognition, institutional competence, jurisdictional clarity, and compatibility with applicable state law. The distinction is important because the existence of a customary norm, the functioning of the institution that sustains it, and the possession of enforceable authority within the formal legal system represent related but analytically distinct conditions.

2. Retention of the Regulatory and Conservation Functions of Sasi Amid Social-Ecological Change

The analysis of the literature demonstrates that the regulatory function of sasi remains visible in contemporary resource governance through restrictions on access, limitations on harvesting, designation of closed and open periods, and customary supervision. These mechanisms show that sasi operates as a rule-based system for controlling the timing, manner, and scope of resource utilization. [Alvayedo and Erliyana \(2022\)](#) identify sasi as a local wisdom institution governing terrestrial and marine resources, while [Berlianty \(2022\)](#) documents matakau as a customary mechanism that restricts access to natural resources. Rather than treating these practices as merely symbolic traditions, the analysis identifies them as regulatory arrangements that structure community conduct toward natural resources.

The conservation function of sasi is similarly reflected in the temporal and substantive restrictions imposed on resource use. [Hasriyanti et al. \(2023\)](#) report that sasi is oriented toward maintaining resource availability for future generations, while [Muin and Rakuasa \(2023\)](#) identify periodic restrictions under Sasi Laut as mechanisms that reduce exploitation and provide opportunities for ecological recovery. The synthesis of these findings indicates that the conservation dimension of sasi is embedded in its regulatory structure: restrictions on access and timing function simultaneously as mechanisms of social control and resource protection.

The analysis further identifies the kewang as a central institutional actor in translating customary rules into practice. [Dayanto \(2024\)](#) positions the kewang as an important customary institution in environmental protection and ecological sustainability, while [Alfons and Sospelisa \(2023\)](#) demonstrate interaction among customary, religious, and state institutions in natural-resource governance. The synthesis indicates that the functioning of sasi cannot be attributed exclusively to the normative content of customary rules. It also depends on institutional arrangements that provide supervision, facilitate compliance, and connect customary rules with other governance actors.

A further finding concerns the variability of compliance. [Lopulalan and Abrahamsz \(2023\)](#) show that the existence of customary rules and stakeholder involvement in Sasi Lompa does not automatically result in optimal compliance with responsible fisheries management. [Ratuanak et al. \(2022\)](#), meanwhile, demonstrate that customary dispute-resolution mechanisms in the Kei Islands continue to receive social legitimacy while interacting with hybrid dispute-resolution arrangements. These findings indicate that social acceptance of customary law may remain strong even when practical implementation is uneven. Consequently, the continuity of sasi should not be measured solely by the continued existence of customary rules, but also by the capacity of customary institutions and communities to maintain compliance under changing social, economic, and ecological conditions.

The findings are consistent with the living law perspective insofar as the continuing significance of sasi is associated with its sustained operation within customary social relations and institutions. At the same time, the findings do not establish that social acceptance alone guarantees effective regulation. Instead, the literature indicates an analytical distinction between the continuity of customary norms and their regulatory effectiveness. This distinction is particularly relevant because the reviewed studies show variations in institutional capacity and compliance.

The synthesis of the second research question therefore identifies four interrelated dimensions of the continuing function of sasi: regulation of access and utilization, temporal control of resource exploitation, institutional supervision, and community compliance. The conservation function emerges from the interaction of these dimensions rather than from prohibition alone. At the same time, variation in compliance demonstrates that the presence of customary rules does not necessarily produce uniform regulatory outcomes.

3. Harmonizing Customary Law and State Law Without Eliminating the Institutional Character of Customary Communities

The analysis identifies legal harmonization as a problem of managing the relationship between two normative orders that operate within the same governance space. The relevant materials do not support an approach in which customary law is simply replaced by state law. Instead, the sources indicate the need to clarify the respective roles and areas of authority of customary and state institutions. Within this relationship, the kewang represents a key institutional mechanism through which customary rules concerning access, prohibition, supervision, and compliance are implemented at the community level.

This finding is interpreted through the established perspective of legal pluralism, which provides a framework for understanding the coexistence and interaction of multiple normative orders within the same social and governance space. In the context of sasi, the analysis does not assume that customary law and state law possess equal institutional status or enforcement capacity. Rather, legal pluralism helps explain the coexistence of customary norms with constitutional, administrative, environmental, and sectoral rules, including situations in which their respective spheres of authority may overlap or generate uncertainty.

The legal literature identifies several sources of uncertainty surrounding the institutional position of customary communities. [Widyastuti and Anam \(2024\)](#) identify weaknesses in the position of customary law within the Indonesian legal system. [Simarmata \(2024\)](#) points to regulatory complexity, lengthy recognition procedures, and uncertainty regarding recognition standards in customary forest governance. [Zainurohmah et al. \(2024\)](#) likewise identify uncertainty regarding the status, rights, and institutional position of customary communities, while [Sorik and Dwiatmoko \(2023\)](#) document conflicts involving customary communities, government authorities, and permit holders within sectoral and centralized resource governance. Collectively, these studies indicate that legal uncertainty arises not merely from the absence of recognition, but from differences between formal recognition and the practical allocation of authority.

At the same time, the analysis identifies evidence of potential compatibility between customary and state law. [Sihotang and Chansrakao \(2023\)](#) discuss the integration of customary law and national law within the Indonesian legal system. [Aldyan et al. \(2025\)](#) identify the possibility of synergistic environmental governance under legal pluralism when customary institutions possess a clear legal position and state institutions adopt cooperative arrangements. [Kurdi et al. \(2025\)](#) further report that formal recognition can strengthen the environmental functions of customary communities. These findings indicate that the relationship between customary and state law is not

necessarily characterized by conflict; its outcome is influenced by the clarity of institutional roles, recognition mechanisms, jurisdictional boundaries, and the form of interaction between the two legal orders.

The analysis also establishes that recognition of a customary community is not identical to recognition of the institutions through which customary authority is exercised. [Wijaya Negara and Ringgi \(2026\)](#) emphasize constitutional recognition of customary communities, while [Simamora \(2025\)](#) demonstrates that effective recognition and protection of customary rights require attention to customary territory, customary rights, and the institutional arrangements through which these rights are recognized and protected. [Bako and Nasution \(2025\)](#) conceptualize customary rights as collective rights connected with community, territory, natural resources, and customary institutions. [Supriyadi \(2024\)](#) further identifies the adaptive capacity of customary law while noting its comparatively lower degree of formal legal certainty than written law. The synthesis therefore indicates that effective recognition requires attention not only to the existence of the community, but also to the institutions, territory, norms, and functions through which customary authority is exercised.

The analysis further considers the implications of responsive law as a theoretical perspective for interpreting the relationship between customary and state law. In this context, responsiveness concerns the capacity of the legal framework to accommodate relevant social and ecological needs while maintaining legal consistency and protection of public interests. The findings suggest that the recognition of customary institutions should not be limited to formal acknowledgment of their existence when such recognition does not provide sufficient clarity concerning institutional roles and jurisdiction. At the same time, the findings do not support unrestricted delegation of state authority to customary institutions. Rather, they indicate the need for legal arrangements that are sufficiently open to the continued operation of socially legitimate customary norms within the boundaries of national law.

Based on the synthesis of living law, legal pluralism, and responsive law, this study formulates “coordinated legal pluralism” as an analytical proposition developed from the findings, rather than as an established theory or an empirically validated model. The term is used to describe a possible normative relationship in which customary and state legal orders retain their respective sources of legitimacy while mechanisms of coordination are developed at points where their functions or spheres of authority intersect. Within this analytical proposition, the state retains constitutional, administrative, and public-interest functions falling within its legal jurisdiction, while customary institutions may continue to perform locally recognized functions of regulation, monitoring, and internal compliance within the scope of their recognized authority.

Because this study is normative and based on library research, the proposed coordinated legal pluralism should not be interpreted as evidence that such an institutional arrangement has been empirically implemented or validated across sasi communities in Maluku. It is more appropriately understood as a normative-conceptual proposition derived from the synthesis of legal materials and scholarly literature. Its purpose is to organize the legal implications identified in the analysis, particularly the need for clearer recognition, institutional authority, jurisdictional boundaries, and coordination between customary and state institutions.

The principal finding of this section is that the harmonization of customary and state law depends on the relationship among legal recognition, institutional authority, jurisdictional clarity, and cooperation between governance institutions. Where recognition exists without clear institutional authority, customary rules may continue to operate socially but remain limited in their formal juridical effect. Conversely, where customary institutions are given a clearer legal position within the limits of national law, opportunities for complementary resource governance become more visible. Accordingly, harmonization in this study is identified as a process of clarifying and coordinating legal functions rather than eliminating the distinct institutional character of customary communities.

Table 1. Synthesis Matrix of Legal Sources, Forms of Recognition, Customary Authority, and Juridical Limitations

Legal source/material	Form of recognition	Authority or function relevant to sasi	Juridical limitation identified
Article 18B paragraph (2), 1945 Constitution	Constitutional recognition of customary law communities and traditional rights	Provides the constitutional basis for recognition of customary institutions and rights	Recognition is conditional upon continued existence, societal development, and conformity with the Unitary State of the Republic of Indonesia
Article 28I paragraph (3), 1945 Constitution	Recognition of cultural identity and traditional community rights	Strengthens constitutional protection of traditional communities	Does not specify the concrete jurisdiction of customary institutions

Legal source/material	Form of recognition	Authority or function relevant to sasi	Juridical limitation identified
Law No. 32 of 2009	Recognition of local wisdom and customary law communities in environmental governance	Provides normative space for customary participation in environmental protection	Does not comprehensively define the operational authority of each customary institution
Law No. 1 of 2014	Recognition and participation of customary law communities in coastal and small-island management	Provides a legal basis for customary participation in resource management	Interaction with sectoral and governmental authority may create overlapping competencies
Maluku Provincial Regulation No. 16 of 2019	Regional institutional framework for customary villages	Supports institutional organization, authority, supervision, and governance of customary communities	Regional recognition remains connected to the broader national legal framework
Putusan MK No. 35/PUU-X/2012	Constitutional jurisprudence concerning customary communities and customary rights	Strengthens the legal understanding of customary rights and their relationship with state control	Constitutional recognition still requires implementation through relevant legal and administrative mechanisms

Source: Author's synthesis based on the legal materials reviewed.

Table 2. Synthesis Matrix of Sasi Dimensions, Institutions, Functions, Problems, and Legal Implications

Dimension of sasi	Main implementing institution/actor	Regulatory and ecological function	Institutional problem identified	Legal implication
Restriction of access	Customary institutions, particularly kewang	Controls access and prevents excessive resource exploitation	Compliance may vary according to social and institutional conditions	Requires recognition of the authority responsible for supervision and enforcement
Closed and open periods	Customary institutions and community	Allows resource recovery and controls harvesting intensity	Effectiveness depends on community compliance	Requires coordination where customary restrictions intersect with sectoral regulation
Monitoring and supervision	Kewang and community actors	Maintains compliance and protects resources	Institutional capacity and formal authority may be limited	Clearer institutional recognition can strengthen implementation
Community compliance	Community members and customary institutions	Sustains the practical effectiveness of sasi norms	Social legitimacy does not always produce uniform compliance	Legal strengthening should be accompanied by institutional and social mechanisms
Dispute resolution	Customary institutions, potentially interacting with state institutions	Provides a mechanism for resolving violations or resource-related disputes	Possibility of overlap with formal dispute-resolution mechanisms	Jurisdictional boundaries and coordination mechanisms need clarification
Environmental protection	Customary institutions and community	Connects customary restrictions with ecological sustainability	Protection outcomes depend on continuity of customary institutions	Recognition should account for the functional contribution of customary institutions

Dimension of sasi	Main implementing institution/actor	Regulatory and ecological function	Institutional problem identified	Legal implication
Institutional recognition	Customary institutions and regional/state authorities	Provides the basis for the exercise of customary authority	Recognition of community existence may not automatically establish institutional authority	Recognition needs to address both community status and operational institutional functions

Source: Author's synthesis based on the literature and legal materials reviewed.

The overall analysis indicates that the legal sustainability of sasi is shaped by the interaction of customary norms, customary institutions, community legitimacy, compliance, and formal legal recognition. The materials reviewed demonstrate that sasi possesses a continuing regulatory and conservation function at the community level, while its formal juridical position remains differentiated according to the level of legal and institutional recognition available within the state system. The analysis therefore distinguishes three related but analytically separate conditions: the existence of customary norms, the effectiveness of customary institutions, and the formal recognition of customary authority.

The central legal issue identified through the analysis is not simply the absence of recognition of customary law in the Indonesian legal order, but the extent to which recognition is translated into identifiable institutional authority and workable jurisdiction. The findings, interpreted through living law, legal pluralism, and responsive law, indicate that the sustainability of sasi depends on connecting the social legitimacy of customary norms with institutional mechanisms of supervision and compliance while maintaining coherence with state law. On this basis, coordinated legal pluralism is presented as an analytical proposition for understanding possible legal harmonization, not as an empirically validated model. These results provide the analytical and doctrinal basis for the subsequent discussion of living law, legal pluralism, responsive law, and the relationship between customary and state institutions.

DISCUSSION

The findings indicate that the legal issues surrounding *sasi* are not merely concerned with the continuity of a customary practice, but rather with the relationship among normative validity, institutional authority, ecological functions, and legal recognition. The results show that *sasi* continues to function as a mechanism for regulating resource use, limiting exploitation, monitoring, and controlling community behavior. However, the institutional position of the actors responsible for implementing *sasi* has not always been accompanied by commensurate authority within the state legal governance system. These findings reveal a distinction between the social validity of customary law and institutional validity within the formal legal system.

This distinction can be explained through Eugen Ehrlich's concept of *living law*. From this perspective, the validity of law is determined not only by rules enacted by the state but also by norms that actually operate within social relationships. In the context of *sasi*, its normative strength does not primarily derive from its codification in written regulations, but from community acceptance, institutional practices, and social control mechanisms that enable the norm to remain functional. Therefore, the existence of *sasi* as *living law* cannot be equated with formal recognition of its juridical authority. The findings instead indicate that a customary norm may remain socially embedded and receive internal legitimacy while its sphere of authority becomes constrained when interacting with licensing, spatial planning, resource management, and state administrative decisions.

From the perspective of legal pluralism, this condition demonstrates that *sasi* and state law constitute two normative orders that interact within the same sphere of resource governance. State law provides constitutional, administrative, environmental, and sectoral frameworks, whereas *sasi* establishes local rules concerning access restrictions, periods of resource use, monitoring, and community compliance. However, the coexistence of these two legal orders does not imply equal institutional capacity. State law possesses stronger administrative apparatuses, formal authority, and enforcement instruments, whereas *sasi* derives its effectiveness primarily from social legitimacy and customary authority. Accordingly, legal pluralism in the context of *sasi* should be analyzed not only in terms of the existence of multiple norms, but also in terms of the distribution of authority among the institutions that implement those norms.

The constitutional framework demonstrates that recognition of customary law communities has a normative basis in Article 18B(2) of the 1945 Constitution of the Republic of Indonesia (*Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*), subject to the existence of customary law communities, societal development, and the

principles of the Unitary State of the Republic of Indonesia. Constitutional Court Decision No. 35/PUU-X/2012 reinforced this framework by defining customary forests as forests located within the territories of customary law communities and correcting the previous legal construction that classified customary forests as part of state forests. This decision is important for the discussion of *sasi* because it demonstrates that constitutional recognition of customary law communities has implications for how the state understands the relationship among indigenous communities, territory, natural resources, and authority over their management. Thus, the central issue is no longer merely whether a basis for recognition exists, but how such recognition is translated into institutional authority that can actually be exercised.

The sectoral legal framework provides more concrete space for customary governance, while simultaneously revealing the limits of customary authority. Law No. 32 of 2009 on Environmental Protection and Management, which has been amended, among others, through Law No. 6 of 2023, recognizes local wisdom as one of the principles of environmental protection and management. The law also incorporates community participation and recognition of customary law communities into environmental governance. Meanwhile, Law No. 1 of 2014 provides opportunities for customary law communities to participate in the management of coastal areas and small islands, while at the same time establishing government authority over the planning and management of such areas; these provisions have subsequently also been incorporated into the amended legal regime under Law No. 6 of 2023. This situation demonstrates that recognition of local wisdom and customary law communities does not, by itself, entail the transfer of the state's administrative authority to customary institutions.

The findings concerning Maluku Provincial Regulation No. 16 of 2019 further clarify this issue. This regional regulation governs customary villages, including their establishment, governance, authority, supervision, guidance, and financing. Thus, at the regional level, an institutional framework exists for the recognition and operation of customary governance and communities. However, the existence of such an institutional framework cannot automatically be interpreted as granting unlimited authority to every customary institution over all decisions concerning natural resources. In the context of *sasi*, this distinction is important because the authority of the *kewang* must be understood in relation to the authority structure of customary villages, local governments, and sectoral legal regimes governing particular resources.

On this basis, the terms “existential recognition” and “operational recognition” used in this article are not presented as standalone theories or as established concepts in legal scholarship. Rather, they constitute analytical distinctions formulated in this study to explain the difference between recognition of the existence of customary law communities and their traditional rights, and recognition that enables customary institutions to exercise their functional authority in governmental processes and resource management. Similarly, the term “functional recognition” is used as an analytical proposition developed in this study, rather than as a normative category explicitly established by statutory law. This limitation is necessary to ensure that the article's conceptual contribution does not exceed the evidence generated through the literature-based legal analysis.

In this relationship, the function of the *kewang* is particularly important because this institution serves as a link between customary norms and their day-to-day implementation. The reviewed literature indicates that the effectiveness of *sasi* is associated with the legitimacy of the *kewang*, monitoring mechanisms, and the capacity of customary institutions to sustain community compliance. [Purba et al. \(2025\)](#) associate the effectiveness of *sasi* with social cohesion, *kewang* legitimacy, and the adaptive capacity of traditional ecological knowledge, while [Dayanto \(2024\)](#) positions the *kewang* as an important institution for environmental protection. [Alfons and Soselisa \(2023\)](#) likewise demonstrate the potential interaction among customary, religious, and state institutions in resource management. These findings support the argument that the resilience of *sasi* is determined not only by the existence of norms but also by the continuity of institutions that possess the legitimacy to implement those norms.

The ecological dimension further strengthens the relationship between authority and the effectiveness of customary law. Restrictions on access, the establishment of closed and open seasons, and monitoring are not merely ritual expressions but also serve as mechanisms for controlling resource utilization. [Hasriyanti et al. \(2023\)](#) demonstrate the intergenerational orientation embedded in *sasi*, whereas [Muin and Rakuasa \(2023\)](#) show that periodic restrictions can reduce exploitative pressure and provide opportunities for ecological recovery. [Alvayedo and Erliyana \(2022\)](#) and [Berlianty \(2022\)](#) also demonstrate the regulatory character of restrictions under *sasi*. However, the existence of such rules does not automatically guarantee ecological outcomes. [Lopulalan and Abrahamsz \(2023\)](#) show that the existence of customary rules and stakeholder involvement does not necessarily produce optimal levels of compliance. Accordingly, this study draws a clear distinction between normative continuity and regulatory effectiveness.

This distinction is important for explaining the social and economic changes that affect *sasi*. The normative orientation of *sasi* emphasizes restrictions on resource use, resource regeneration, and collective interests, whereas economic incentives may encourage short-term exploitation. Within the framework of *living law*, such changes imply

that the vitality of customary law is also determined by transformations in the social relationships that sustain it. Therefore, maintaining *sasi* does not necessarily mean preserving all of its historical forms, rituals, and procedures unchanged. More relevant from a legal perspective is the preservation of its ratio legis, namely the control of exploitation, protection of collective interests, restoration of resources, and intergenerational sustainability. Zerner (1994) demonstrates that *sasi* has historically undergone changes in response to transformations in social, political, religious, and resource-management conditions; Supriyadi (2024) likewise identifies adaptability as an important characteristic of customary law.

At this point, Nonet and Selznick's theory of *responsive law* provides an explanation of how state law should relate to customary institutions. This concept is not employed as an additional theory derived from the findings, but rather as a theoretical framework for interpreting the relationship between state norms and customary law. Responsive law does not stop at procedural certainty but creates room for law to respond to social needs. In the context of *sasi*, this principle means that state law need not take over customary authority, but may instead establish institutional conditions that allow living customary norms to function within constitutional and national legal boundaries. From this perspective, responsiveness is not understood as the unrestricted delegation of state authority, but as institutional openness to forms of community-based regulation that possess social legitimacy.

Based on these three frameworks, this study formulates “coordinated legal pluralism” as an analytical proposition, rather than as a new theory. The term is used to describe a legal relationship in which state law and customary law retain their respective sources of legitimacy while maintaining room for coordination at points where their spheres of authority intersect. The state retains its constitutional functions, the establishment of general standards, the protection of rights, and the management of public interests falling within its jurisdiction; meanwhile, customary institutions retain functions of local regulation, monitoring, and the formation of internal compliance within the scope of recognized customary authority. Accordingly, coordinated legal pluralism differs from legal uniformity because it does not require customary norms to be entirely converted into state law.

This distinction also clarifies the difference between integration and assimilation. Integration is constructive when interaction with state law enhances the certainty and operational capacity of customary institutions without eliminating their sources of social legitimacy. Conversely, integration becomes assimilation when state institutions become the sole source of legitimacy and customary institutions are restructured according to bureaucratic logic. The findings concerning the importance of *kewang* legitimacy suggest that such institutional transformation may reduce the effectiveness of *sasi*, even if it results in formal legal recognition. Therefore, the degree of harmonization cannot be measured solely by the number of legal norms recognizing customary law, but also by the extent to which such recognition preserves the institutional functions that make customary law effective.

On the basis of this argument, the relationship among norms, institutions, compliance, ecological functions, and legal recognition can be formulated as the following analytical proposition: “*Sasi norms* → *authority and legitimacy of customary institutions* → *community compliance* → *regulatory and conservation functions* → *need for operational legal recognition* ↔ *coordination between customary and state authority*.”

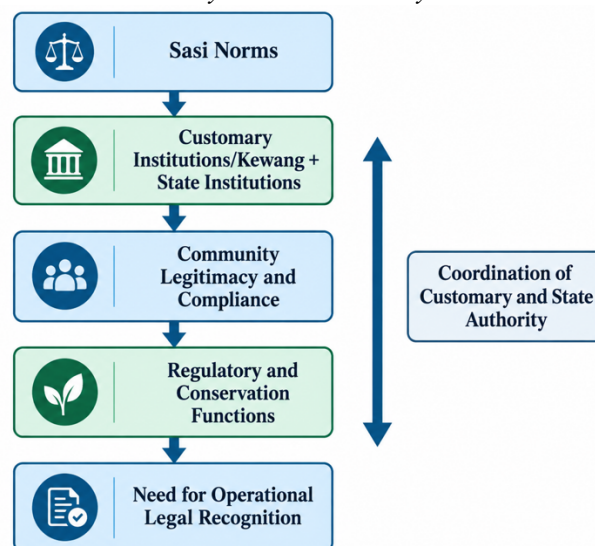


Figure 1. Analytical Framework for Harmonizing *Sasi* within Legal Pluralism

Source: Author's analytical framework.

This relationship is reciprocal rather than linear. Weak institutional authority may reduce compliance; declining compliance may weaken conservation functions; and weakened conservation functions may, in turn, diminish the substantive rationale for strengthening institutional arrangements. Conversely, legal recognition that clarifies the institutional position without taking over customary legitimacy may strengthen monitoring and coordination capacity. This framework constitutes the principal analytical contribution of the study because it conceptualizes the sustainability of *sasi* as an issue of relationships among institutional elements rather than merely as a matter of cultural preservation.

The reciprocal arrow indicates that legal recognition is not positioned as an endpoint, but rather as a condition that may strengthen or, alternatively, transform the relationship among norms, institutions, compliance, and ecological functions. The legal implications of these findings should be framed proportionately to the character of this study as a normative legal study based on library research. This study does not provide an empirical basis for prescribing a specific institutional design; therefore, the recommendations are not directed toward establishing new institutions or granting specific administrative authority without an adequate legal basis. The more limited implication is the need for interpretations and recognition policies that consider not only the existence of customary law communities, but also the institutions, territories, norms, and functions that concretely sustain the operation of customary law. This approach is consistent with Constitutional Court Decision No. 35/PUU-X/2012, which positions territory and the traditional rights of customary law communities as important elements in the legal construction of their recognition.

Within this framework, documentation of territory, institutional structures, core norms, and decision-making mechanisms may be understood as an instrument for increasing the visibility of customary law without transforming it into a rigid bureaucratic regulatory system that is closed to change. Recognition of the *kewang* is likewise more appropriately understood as recognition of an institutional function that has already developed and operates within the community, rather than as a formal appointment of a customary institution as an organ of the state administration. Within these limits, harmonization may be directed toward clarifying the relationship of authority when customary decisions intersect with governmental powers, particularly in resource management, spatial planning, and environmental protection.

Thus, the theoretical contribution of this study lies in connecting three distinct but complementary perspectives. *Living law* explains why *sasi* retains normative force because it is rooted in social relationships and community legitimacy; legal pluralism explains why this normative force interacts unevenly with state law; and *responsive law* provides a normative basis for constructing a legal relationship that is more open to customary institutions. From these relationships, two analytical distinctions and one principal analytical proposition are formulated: existential-operational recognition, integration-assimilation, and coordinated legal pluralism. These are not claimed as new theories, but rather as conceptual tools formulated through a normative reading of the research findings.

Accordingly, the harmonization of customary law and state law in the context of *sasi* should not be directed toward the standardization of norms or the subordination of customary institutions. A more relevant measure of harmonization is whether such a relationship provides clarity regarding the scope of authority, preserves the legitimacy of customary institutions, and enables regulatory and conservation functions to continue within the boundaries of national law. From this perspective, *sasi* should not be treated as a cultural residue that merely needs to be preserved, but as a form of community-based environmental governance whose strength derives from the relationship among norms, institutions, compliance, and legitimacy.

CONCLUSION

The findings demonstrate that *sasi* constitutes a form of customary law that continues to function as *living law* through community-based rules governing access to, utilization of, and protection of natural resources. Its legal existence is supported by constitutional and statutory foundations, particularly Article 18B paragraph (2) and Article 28I paragraph (3) of the 1945 Constitution of the Republic of Indonesia, together with the broader legal framework governing environmental protection, coastal and small-island management, and customary law communities. Accordingly, the principal juridical problem does not lie in the absence of legal recognition (*rechtsvacuum*), but rather in the gap between the recognition of customary law communities and the operational authority of the institutions through which *sasi* is implemented. This gap is reflected in uncertainty concerning institutional standing, jurisdiction, and the relationship between customary authority and state-based administrative and sectoral governance.

The study further finds that the regulatory and conservation functions of *sasi* are sustained through restrictions on access to and exploitation of natural resources, the establishment of closed and open periods, customary monitoring, institutional supervision, and community compliance. The effectiveness of these functions, however, depends not only on the existence of customary norms but also on the legitimacy and capacity of customary institutions, particularly the *kewang*, as well as the ability of communities to maintain compliance amid social, economic, and ecological change. The continuity of *sasi* should therefore not be understood solely as the preservation of customary rules in their historical

form, but rather as the continuation of their substantive *ratio legis*, particularly the control of exploitation, protection of collective interests, resource regeneration, and intergenerational sustainability.

Conceptually, this study develops three analytical distinctions: existential recognition and operational recognition, integration and assimilation, and coordinated legal pluralism. These concepts are employed as analytical tools rather than presented as new legal theories or statutory categories explicitly established by legislation. The distinctions explain that recognition of the existence of customary law communities does not automatically confer operational authority upon customary institutions, and that harmonization between customary law and state law should be directed toward coordinating functions and jurisdictions without eliminating the institutional character and social legitimacy of customary law communities. Accordingly, the sustainability of *sasi* can be understood through the reciprocal relationship among customary norms, institutional authority and legitimacy, community compliance, regulatory and conservation functions, and legal recognition.

The implications of these findings are that legal recognition of *sasi* should move beyond acknowledgment of its existence toward arrangements that clarify the institutional position, functional scope, and jurisdictional relationship of customary authorities within the boundaries of national law. Such recognition should facilitate coordination between customary institutions and state authorities in areas where their respective functions intersect, while preserving the internal legitimacy and institutional character of customary law communities. Because this study employs normative legal analysis and library research, it does not empirically assess the effectiveness of *sasi*, the actual capacity of the *kewang*, levels of community compliance, or variations in customary–state relations across different communities in Maluku. Further research is therefore needed, particularly through socio-legal and comparative studies, to examine the extent to which the proposed model of functional and operational recognition can be implemented across diverse customary contexts.

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