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**Department of Public International Law and International Relations**  
**Professor Miguel Ángel Martín López**  
**Public International Law and International Relations**



**To Prof. Dr. Yustina Trihoni Nalesti Dewi**  
**Soegijapranata Catholic University, Indonesia**

Hereby, an invitation is extended to Prof. Dr. Yustina Trihoni Nalesti Dewi, Professor at Soegijapranata Catholic University, to participate as a plenary speaker at the Fifth Congress on Land and Human Rights, which will take place at the University of Seville on April 8 and 9, 2026. The title of her plenary lecture is "Who controls customary resource governance? Legal pluralism and contested authority in Maluku."

Dr. Miguel Ángel Martín López, Director of the Congress

[maml@us.es](mailto:maml@us.es)

Sevilla (Spain), 27 March 2026



Instituto universitario de  
Estudios sobre América Latina  
Universidad de Sevilla



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LAND AND HUMAN RIGHTS

The Organizing Committee of the “Fifth International Congress on Land and Human Rights. Achieving Sustainable Food Systems through Improved Financing, More Imaginative Public Policies, and a More Effective Human Rights Approach,” held in person at the University of Seville (Spain) and virtually on the platform [landhumanrights.org](http://landhumanrights.org) on April 8 and 9, 2026, hereby certifies that:

## Prof. Dr. Yustina Trihoni Nalesti Dewi

Participated as an invited speaker at the congress, delivering the lecture:  
*“Who controls customary resource governance? Legal pluralism and contested authority in Maluku”*



Departamento de Derecho  
Internacional Público y  
Relaciones Internacionales.  
Congreso Internacional  
Land and Human Rights

**Miguel Ángel Martín López**  
Repr. Presidencia científica del congreso



**Francisco Anaya Benítez**  
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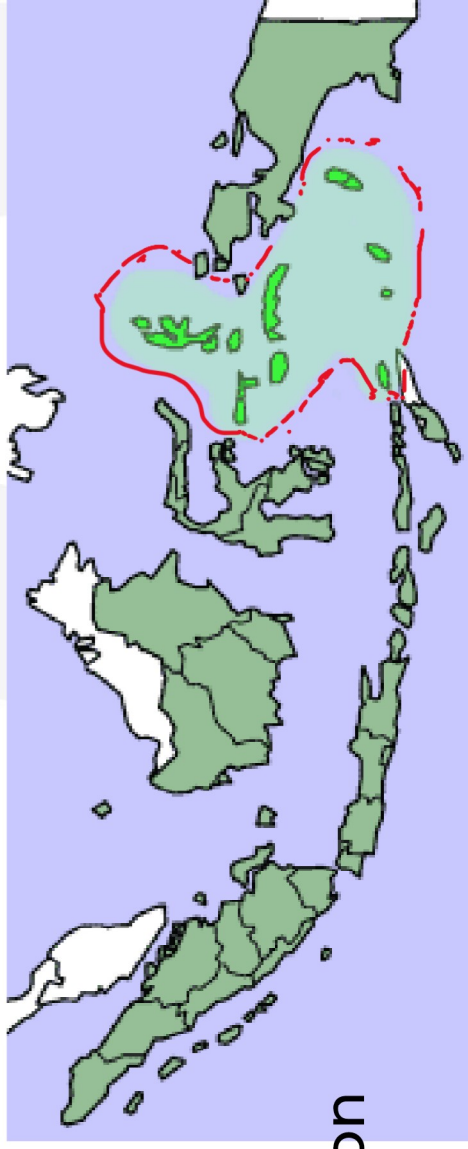
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# **WHO CONTROLS CUSTOMARY RESOURCE GOVERNANCE? LEGAL PLURALISM AND CONTESTED AUTHORITY IN MALUKU**

YUSTINA TRIHONI NALESTI DEWI  
SOEGIJAPRANATA CATHOLIC UNIVERSITY

# MALUKU: ARCHIPELAGIC CONTEXT

- Indonesia: ~17,000 islands
- Maluku: ~1,700 islands
- Coastal and fragmented region
- Strong dependence on marine resources
- High cultural and governance diversity



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# WHAT IS SASI

- Customary system for managing resources
- Regulates when, where, how to use resources
- Tutup Sasi (closure) – Buka Sasi (opening)
- Ensures sustainability and recovery



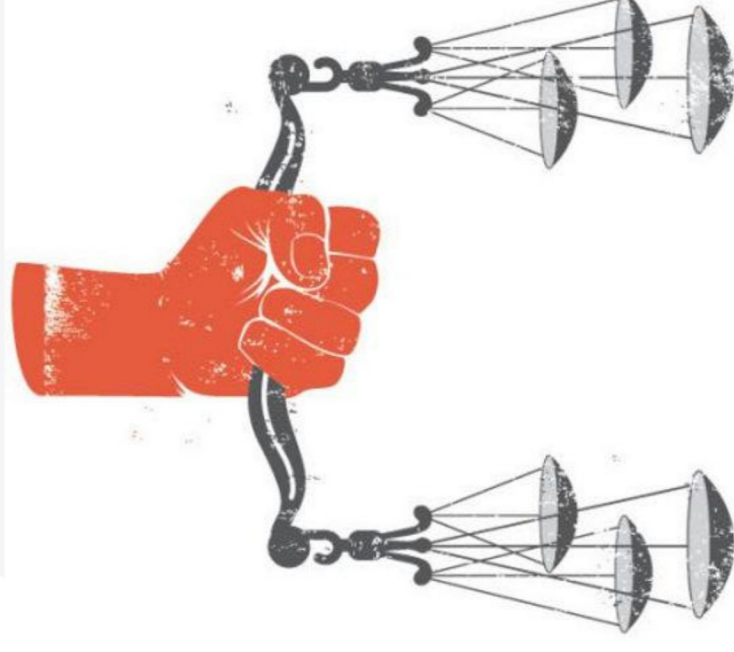
# SASI AS LIVING LAW

- Not only environmental system
- Governs authority and social order
- Raja – head of customary village
- Saniri – customary council
- Kewang – law enforcer
- Practiced and respected daily



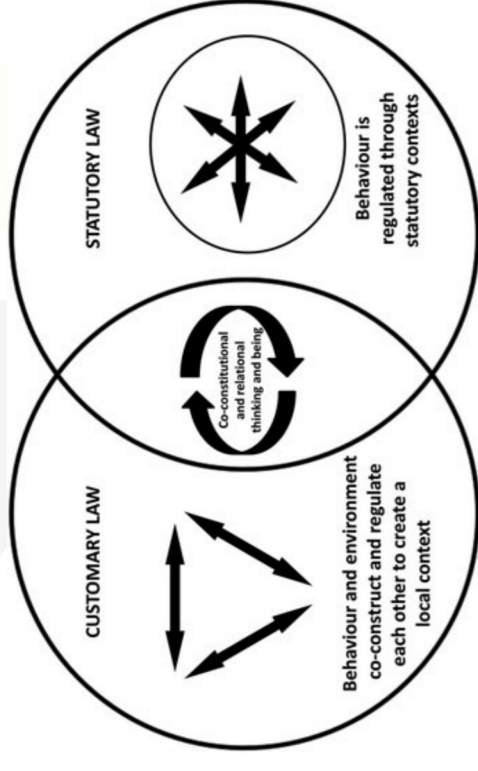
# THE PROBLEM

- Sasi strong in practice, weak in law
- Recognized but conditional
- Always below state law
- Gap between local respect and legal power



# RECOGNITION WITHOUT POWER

- State can issue permits over Sasi areas
- Community closure can be overridden
- Legal authority remains with the state
- Sasi recognized but limited



# WHO CONTROLS?

- Control is fragmented
- State → legal authority
- Market → economic access
- Community → local governance
- Not equal distribution of power



# WHY DOES IT HAPPEN

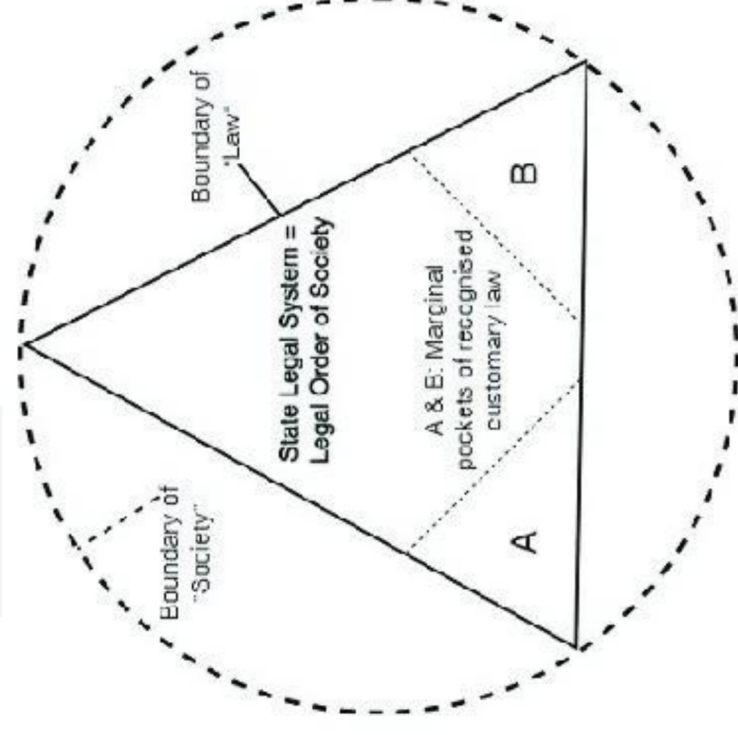
- Multiple systems exist together
- State law, customary law, religious norms
- Legal pluralism in practice
- Systems are not equal



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# DISCRIMINATORY LEGAL PLURALISM

- Recognition  $\neq$  equality
- State law dominates
- Customary law conditional
- Inclusion without real power



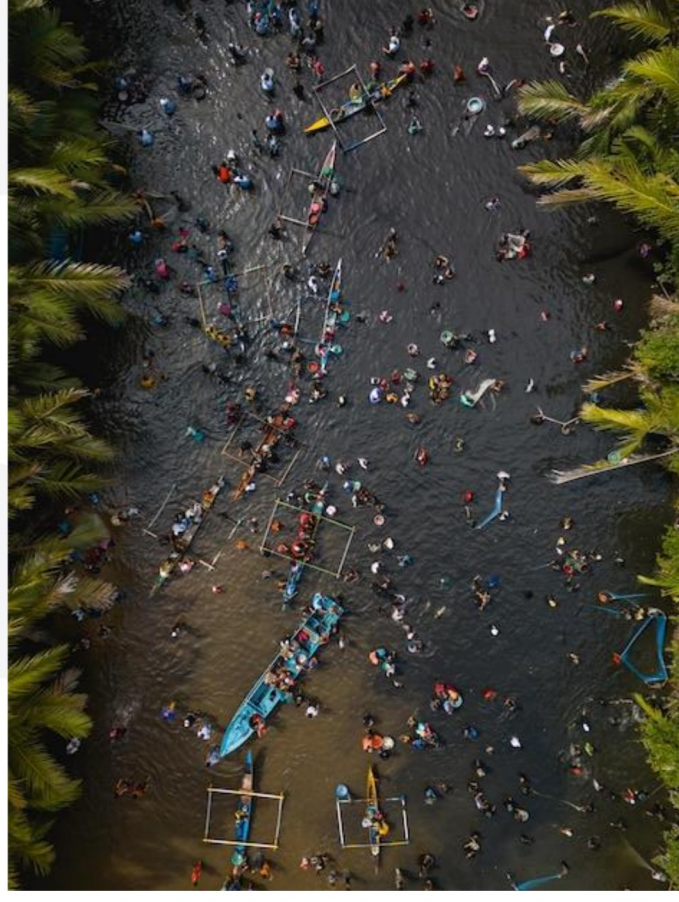
# CASE MALUKU

- Haruku → strong Sasi, active Kewang
- Kailolo → permits override Sasi
- Some villages → weak leadership
- Auction systems exclude small fishers



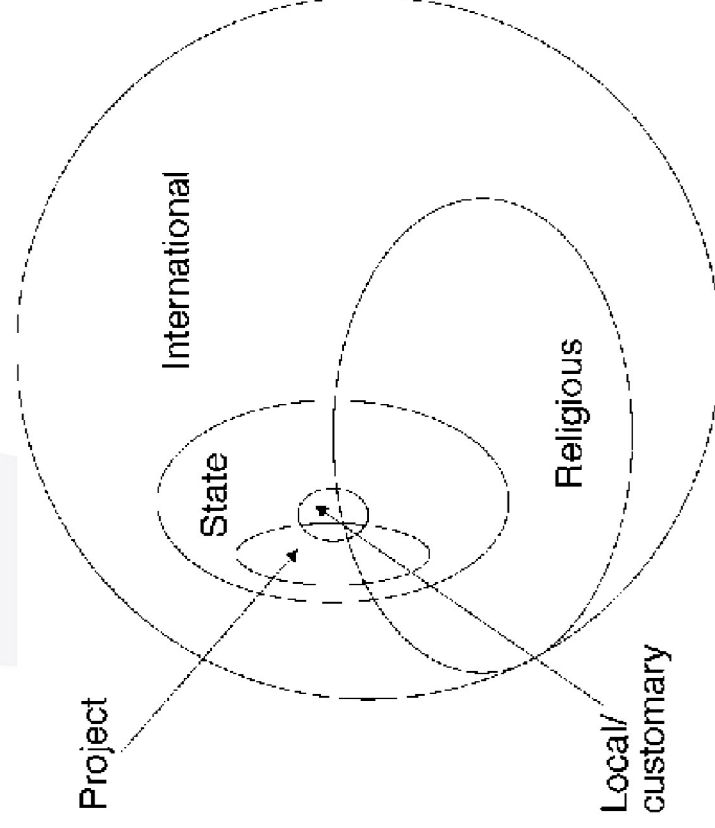
# Key Insight

- Sasi does not disappear
- Its strength depends on legal support
- External systems shape local authority



# IMPLICATIONS

- Recognition is not enough
- Need legal authority for customary law
- Align permits with Sasi
- Improve inclusiveness



# CONCLUSION

- Control is shared but unequal
- State, market, and community interact
- Core issue: power and equality
- Customary law must be treated as real law





*Thank you*

## WHO CONTROLS CUSTOMARY RESOURCE GOVERNANCE? LEGAL PLURALISM AND CONTESTED AUTHORITY IN MALUKU<sup>1</sup>

Yustina Trihoni Nalesti Dewi  
Faculty of Law and Communication  
Soegijapranata Catholic University

### Abstract

This paper examines resource governance in Maluku through the lens of legal pluralism, focusing on Sasi as a form of living law. While Sasi remains socially authoritative, its legal position is structurally weak within the state system. This produces a condition of recognition without power, where customary law is acknowledged but subordinated. Drawing on critical perspectives on legal pluralism, the paper argues that control over natural resources is distributed among the state, market, and community, but in fundamentally unequal ways. Legal pluralism, in this context, operates hierarchically, reproducing rather than resolving inequality.

### Introduction

Resource governance in Maluku unfolds within a plural legal landscape. As an archipelagic region with strong dependence on marine resources, governance is shaped by overlapping normative systems rather than a single legal order.

Legal pluralism has long been used to describe such conditions. Griffiths distinguishes between “weak” and “strong” legal pluralism, emphasizing that multiple legal orders coexist in practice beyond formal state recognition.<sup>2</sup> Similarly, Benda-Beckmann shows that law operates through layered and interacting normative orders, rather than through a single hierarchy.<sup>3</sup>

However, later scholarship cautions against treating pluralism as inherently neutral. Merry<sup>4</sup> and Santos<sup>5</sup> argue that plural legal systems are often structured by unequal power relations. The question, therefore, is not simply whether multiple systems exist, but which

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<sup>1</sup> This paper is presented at the Fifth Congress on Land and Human Rights, which takes place at the University of Seville on April 8 and 9, 2026(online)

<sup>2</sup> John Griffiths, “What Is Legal Pluralism?,” *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (1986): 1–55.

<sup>3</sup> Franz Von Benda-beckmann, “Who’s Affraid of Legal Pluralism,” *Journal of Legal Pluralism* 47 (2002): 7–10.

<sup>4</sup> Sally Engle Merry, “Legal Pluralism,” *Law & Society Review* 22, no. 5 (1988): 869–96.

<sup>5</sup> Boaventura de Sousa Santos, “Law: A Map of Misreading. Toward a Postmodern Conception of Law Author,” *Journal of Law and Society* 14, no. 3 (1987): 279–302.

of them ultimately determines outcomes. This paper takes that question as its starting point.

### **Sasi and the Logic of Living Law**

Sasi is a customary system through which communities regulate access to natural resources, organizing extraction through cyclical closures and openings.

From a socio-legal perspective, Sasi can be understood as living law, a concept originally articulated by Eugen Ehrlich, referring to norms that govern social life beyond formal legislation. Its authority lies in its embeddedness within daily practice and its institutional support through actors such as the Raja, Saniri, and Kewang.

This aligns with Moore's<sup>6</sup> notion of semi-autonomous social fields, where communities generate and enforce their own rules while remaining embedded in wider legal and political structures. Sasi operates effectively within this field, but its autonomy is not absolute.

### **The Structural Gap Between Recognition and Authority**

Despite its social legitimacy, Sasi occupies a constrained position within the formal legal order. State recognition of customary law remains conditional and mediated through formal legal frameworks.

This creates a structural gap between recognition and authority. While Sasi is acknowledged, it lacks the legal force to assert its rules against competing claims. State law, particularly through licensing regimes, retains the power to override local governance.

This dynamic reflects what Benda-Beckmann describe as layered legal pluralism, where different legal orders interact but are not equally positioned. In practice, state law remains dominant.<sup>7</sup>

### **Recognition Without Power and Fragmented Control**

The relationship between Sasi and state law can be described as recognition without power. Customary law is visible within the legal framework, yet lacks decisive authority.

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<sup>6</sup> Sally Falk Moore, "Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study," *Law & Society Review* 7, no. 4 (1973): 719–46, <https://doi.org/https://doi.org/10.2307/3052967>.

<sup>7</sup> Franz von Benda-Beckmann and Keebet von Benda-Beckmann, "Myths and Stereotypes about Adat Law: A Reassessment of Van Vollenhoven in the Light of Current Struggles over Adat Law in Indonesia," *Bijdragen Tot de Taal-, Land- En Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia* 167, no. 2–3 (2011): 167–95, <https://doi.org/10.1163/22134379-90003588>.

At the same time, governance is shaped by three interacting forces: the state, the market, and the community. The state controls legal authority, the market shapes economic access, and the community governs through customary norms.

However, as noted by Santos,<sup>8</sup> plural legal systems often operate within what he calls a “hierarchy of legalities,” where dominant systems define the limits of others. This is evident in Maluku, where state and market actors hold structural advantages over community governance.

### **Discriminatory Legal Pluralism**

This unequal configuration produces what can be understood as discriminatory legal pluralism. Otis argues that many forms of legal pluralism fail to achieve genuine equality because recognition of indigenous law remains conditional and subordinate.<sup>9</sup>

Similarly, Santos introduces the concept of “normative violence,” where dominant legal systems marginalize alternative norms by reducing them to cultural expressions rather than recognizing them as law.<sup>10</sup>

In Maluku, Sasi is acknowledged, but its authority is limited. It is incorporated into the legal system without being allowed to fundamentally shape it. Legal pluralism, in this sense, becomes a mechanism that maintains inequality rather than resolving it.

### **Contextual Variations and Legal Environment**

The authority of Sasi varies across communities, depending on local institutional strength and external pressures.

This supports Moore’s argument that the effectiveness of local normative systems depends on their interaction with broader structures. Where state and market pressures are strong, customary authority weakens. Where local institutions are robust, Sasi remains effective.<sup>11</sup>

Thus, Sasi does not disappear; it is reshaped by the legal and political environment.

### **From Recognition to Authority**

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<sup>8</sup> Boaventura De Sousa Santos, “The Law in Context Series,” in *Series-Page. In Toward a New Legal Common Sense: Law, Globalization, and Emancipation, li–vi. Law in Context* (Cambridge: Cambridge University Press, 2020).

<sup>9</sup> Ghislain Otis, “Individual Choice of Law for Indigenous People in Canada : Reconciling Legal Pluralism with Human Rights ?,” *UC Irvine Law Review* 8, no. 2 (2018).

<sup>10</sup> De Sousa Santos, “The Law in Context Series”; Boaventura De Sousa Santos, *Law and the Epistemologies of the South* (Cambridge University Press, 2023).

<sup>11</sup> Moore, “Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study.”

The persistence of inequality suggests that recognition alone is insufficient. As Otis argues, meaningful legal pluralism requires not only acknowledgment, but also redistribution of authority.<sup>12</sup>

This implies strengthening the legal standing of customary systems, aligning state regulation with local governance, and ensuring that customary institutions are not merely consultative but authoritative.

Such a shift moves toward a more symmetrical form of legal pluralism, where different systems interact on more equal terms.

## Conclusion

The case of Maluku demonstrates that legal pluralism does not automatically produce equitable governance. While multiple systems coexist, they do so within a hierarchy that privileges state law and constrains customary authority.

As long as recognition remains conditional and authority unevenly distributed, customary law cannot function as an effective system of governance. Legal pluralism, in this form, reproduces inequality.

Reconfiguring this relationship requires moving beyond symbolic recognition toward a more balanced distribution of authority, where customary law is treated as a legitimate and equal source of governance.

## Reference

- Benda-beckmann, Franz Von. "Who's Affraid of Legal Pluralism." *Journal of Legal Pluralism* 47 (2002): 7–10.
- Benda-Beckmann, Franz von, and Keebet von Benda-Beckmann. "Myths and Stereotypes about Adat Law: A Reassessment of Van Vollenhoven in the Light of Current Struggles over Adat Law in Indonesia." *Bijdragen Tot de Taal-, Land- En Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia* 167, no. 2–3 (2011): 167–95. <https://doi.org/10.1163/22134379-90003588>.
- Griffiths, John. "What Is Legal Pluralism?" *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (1986): 1–55.
- Merry, Sally Engle. "Legal Pluralism." *Law & Society Review* 22, no. 5 (1988): 869–96.
- Moore, Sally Falk. "Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study." *Law & Society Review* 7, no. 4 (1973): 719–46. <https://doi.org/https://doi.org/10.2307/3052967>.
- Otis, Ghislain. "Individual Choice of Law for Indigenous People in Canada : Reconciling

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<sup>12</sup> Otis, "Individual Choice of Law for Indigenous People in Canada : Reconciling Legal Pluralism with Human Rights ?"

Legal Pluralism with Human Rights ?” *UC Irvine Law Review* 8, no. 2 (2018).

Santos, Boaventura de Sousa. “Law: A Map of Misreading. Toward a Postmodern Conception of Law Author.” *Journal of Law and Society* 14, no. 3 (1987): 279–302.

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Sousa Santos, Boaventura De. “The Law in Context Series.” In *Series-Page. In Toward a New Legal Common Sense: Law, Globalization, and Emancipation*, li–vi. *Law in Context*. Cambridge: Cambridge University Press, 2020.

The screenshot shows a Zoom meeting interface. On the left, a video thumbnail shows a woman named Yustiana Zuhoni Nalesti Dewi. The main screen displays a presentation slide with the following content:

### WHY DOES IT HAPPEN

- Multiple systems exist together
- State law, customary law, religious norms
- Legal pluralism in practice
- Systems are not equal

The slide also features an image of a group of people in a meeting. The Zoom interface includes a top toolbar with icons for chat, mute, video, and other controls. The bottom of the screen shows the Windows taskbar with the time 01:52:16 and system tray icons.





