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Governing Through Difference: Legal Pluralism and Conservation Justice in Lamalera

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Abstract

Conservation policies often criminalize indigenous practices when state and global norms disregard local cosmologies. This study examines Lamalera, an indigenous whaling community in Indonesia, whose ancestral system *Ola Nuâng Lefa Nué*, a moral-ecological law regulating whale harvests, conflicts with national bans and international biodiversity regimes. The research identifies a normative and epistemic gap between technocratic conservation and customary law rooted in reciprocity and restraint. Using a critical qualitative case study with fieldwork (2023–2025), interviews, and legal hermeneutics, it analyzes how customary, Church, and state laws intersect within unequal power structures. Findings reveal that Indonesia's conservation law embodies discriminatory legal pluralism. It recognizes custom only under state control. Yet Lamalera's living law fulfills principles of sustainable commons governance. The study proposes inclusive legal mediation: co-management, recognition, and FPIC, to reconcile conservation and indigenous rights, showing that governing through difference offers a more just and sustainable path for marine biodiversity conservation.

Keywords

conservation justice, customary law, epistemic conflict, legal pluralism, marine governance

Introduction

Marine biodiversity conservation often places indigenous communities in dilemmas when state and international legal frameworks fail to align with local norms (Carruthers, 2008). The case of the Lamalera community on Lembata Island, East Nusa Tenggara, Indonesia, illustrates this tension. Their ancestral ecological tradition, *Ola Nuâng-lefa Nué*, understood here as a customary legal–moral system, governs whale hunting through ritual authority (Misa Lefa), strict harvesting rules, and communal redistribution. (Bataona, 2001; Beding, 2008), and communal distribution through the *du-hope* exchange network, has come under pressure from conservation regimes. Far more than subsistence, *Ola Nuâng-lefa Nué* anchors Lamalera's collective identity.

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The creation of the Savu Sea National Marine Protected Area in 2014, covering 3.35 million hectares, together with the listing of the sperm whale (*Physeter macrocephalus*) as a protected species under Indonesian law (Ministerial of Marine Affairs and Fisheries Decree, 2014), rendered Lamalera's practice formally illegal. The initial zoning plan, which included Lamalera's customary waters, triggered strong local opposition and was eventually revoked. As one fisheries officer admitted, the policy was withdrawn because of that protest (Personal interview, May 21, 2024), underscoring local resistance to top-down conservation perceived as a threat to livelihood and culture.

This article examines the normative and epistemic tensions between global conservation frameworks and indigenous subsistence practices, using Lamalera as a critical site for developing a legal pluralism approach. Read against other conservation contexts where legal pluralism operates under more symmetrical institutional conditions, the Lamalera case reveals how marginalization is structurally produced rather than culturally inherent.

We integrate customary (adat) law, state law, and Catholic norms within a multidimensional environmental justice framework. These dynamics are further situated in relation to international regimes, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which prohibits exploitation of Appendix I species such as sperm whales, and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which affirms indigenous cultural and environmental rights. The analysis highlights the need for dialogue among coexisting normative systems and argues for formal recognition of indigenous law in marine governance. By combining legal pluralism with ecological and cultural justice, we propose a model of context-sensitive, inclusive, and just conservation that respects indigenous rights and knowledge while advancing biodiversity goals.

Research Methods

This study adopts a critical qualitative case study design to examine the normative and epistemic dynamics of whale conservation in Lamalera. Fieldwork was conducted in Lamalera A and B villages (Wulandoni District, Lembata) during three periods (May 2024, November 2024, and July 2025). A total of 26 semi-structured interviews were carried out with key actors, including customary leaders, Catholic clergy, village officials, active whalers, and government conservation officers. Several officials acknowledged that conservation policy is primarily shaped by regulatory and biological reasoning, while the cultural and normative foundations of Lamalera's whaling practices have not been systematically engaged (Personal interview, May 21, 2024). These accounts point to an epistemic gap between state conservation frameworks and community-based understandings.

Interviews were complemented by participant observation of seasonal opening rituals (*Misa Lefa*) and the *du-hope* barter-based redistribution of whale products. Document analysis included national regulations, international legal instruments, parish archives, and relevant scholarly literature. Ethnographic materials were recorded through field notes, audio recordings, and photography with informed consent.

Data analysis was guided by legal hermeneutics, understood as a relational and contextual approach to law as lived and spatially embedded rather than as a doctrinal method. Legal meanings, such as conservation, legality, and subsistence, were interpreted through an iterative reading of legal texts, ritual practices, and everyday narratives across customary, state, and religious normative orders. This approach makes visible how competing legal meanings are produced, negotiated, and hierarchized within Lamalera's seascape.

Rather than establishing empirical validity in a positivistic sense, analytical rigor was pursued through the juxtaposition of multiple sources and perspectives, allowing epistemic and normative tensions to emerge. Member checking was conducted as a dialogical and ethical practice to

clarify meanings and prevent misrepresentation of customary norms. Together, these strategies provide a coherent basis for analyzing how living customary law interacts with state conservation regimes and international norms in practice.

Theoretical Framework

This study adopts legal pluralism as its central analytical lens. Rather than viewing law as a unitary order issuing solely from the state, legal pluralism recognizes that multiple normative systems coexist, overlap, and interact. von Benda-Beckmann and von Benda-Beckmann (2006) emphasize that law must be understood relationally, plurality is the norm, relations are structured by power asymmetries, and actors exercise agency in navigating those relations. In Lamalera, customary law, Catholic norms, Indonesian conservation regulations, and international regimes intersect. These are not parallel but intertwined fields, where legitimacy is contested and renegotiated as actors bargain, resist, and collaborate.

Sally Falk Moore (1973) advances the idea of semi-autonomous social fields, communities that generate their own effective rules yet remain permeable to external influence. Lamalera exemplifies this: adat law prescribes who may hunt (*lamafa*), which whales may be taken, when and how hunts are conducted, and how catches are distributed via the *du-hope* system. These rules are socially binding and spiritually sanctioned, sustaining a self-regulating community for centuries. Yet this semi-autonomy is continually disrupted by state interventions, such as the designation of the Savu Sea Marine Protected Area and the Ministry of Environment and Forest (MoEF) Regulation No. P.20/2018 banning all whaling. Lamalera's partial resistance and selective compliance confirm Moore's insight that such fields negotiate, rather than passively absorb, external law.

Boaventura de Sousa Santos (2020) describes law as a condition of interlegality, where everyday life is constituted by the intersections of multiple legal orders. A Lamalera whaler may act under *adat* law and Church blessing while simultaneously violating state and international law. These contradictions reveal law not as coherent, but as layered and often epistemically fractured. In Lamalera, CITES prohibitions are reinterpreted through preexisting *adat* taboos (e.g., not hunting calves or pregnant whales), while UNDRIP's language of indigenous cultural rights is mobilized by priests and leaders to defend *Ola Nuâng-lefa Nué*. This shows that global law is not simply imposed but actively reworked within local cosmologies.

In the context of Indonesia, legal pluralism does not operate as a condition of normative coexistence, but as a hierarchical and discriminatory ordering of legal difference. While customary law is formally acknowledged, its authority remains conditional upon state recognition, spatial zoning, and administrative validation. Customary norms are rendered legally effective only insofar as they can be translated into state categories and regulatory logics. As a result, legal pluralism functions less as an arena of equal legal interaction than as a governance mechanism through which difference is managed, disciplined, and subordinated within a dominant state framework.

Within this hierarchical plural order, commons theory is employed not as an abstract or universal model, but as an analytical lens to illuminate how Lamalera's customary system operates as a place-based moral economy of resource governance. Its vulnerability lies not in ecological failure or overuse, but in its unequal legal standing vis-à-vis state conservation law. The erosion of customary commons thus reflects a structural legal condition, where locally effective institutions are weakened not by their internal logic, but by their subordination within a discriminatory plural legal regime.

The sustainability of Lamalera's whaling can be further illuminated through debates on commons governance. Garrett Hardin's Tragedy of the Commons posited that shared resources inevitably collapse without centralized control (Hardin, 1968). By contrast, Elinor Ostrom (2011) demonstrated that communities can sustainably manage common-pool resources through locally

adapted institutions. Lamalera's *adat* system aligns with Ostrom's principles, including clearly defined boundaries, communal decision-making, monitoring, sanctions, and equitable distribution. This suggests that what the state criminalizes as illegal hunting is, in fact, an indigenous form of commons management. Yet, without state recognition, these institutions remain structurally vulnerable. Commons governance and legal pluralism are therefore deeply entangled, as community-based rules must continuously negotiate their authority within state and global legal regimes (Turner & Wiber, 2023).

Legal pluralism is not only institutional but also affective. Plural legal orders is shaped by emotion, history, and collective sentiment (Bens, 2024). For Lamalera, attachment to the sea, reverence for ancestors, and the spiritual identity of the sperm whale infuse law with moral ecology that exceeds formal regulation (Bataona, 2001). Customary orders need not mimic state law to qualify as law. They endure through practice, symbol, and communal enforcement (Pirie, 2023). In Lamalera, rules governing who may hunt, how the catch is distributed, and when rituals take place remain fully legitimate within the community despite their formal illegality under state law (Bataona, 2001; Taum & Baryadi, 2024).

Normative and Epistemic Conflicts

The Lamalera whale-hunting tradition, *Ola Nuâng-lefa Nué*, is governed by adat law and cosmology that regard it as a sacred and reciprocal practice (Aur et al., 2023; Barnes, 1997; Taum & Baryadi, 2024). This stands in sharp contrast to Indonesian state law, which frames whaling solely as the illegal exploitation of an endangered species. Ministerial Decree of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. 5/KEPMEN-KP/2014 on the National Marine Conservation Area of the Savu Sea and Surrounding Waters in East Nusa Tenggara Province, the government designated the Savu Sea, including Lamalera's customary waters, as a National Marine Park covering more than 3.5 million hectares, divided into 567,165.64 hectares of the Sumba Strait and 2,953,964.37 hectares of the Sabu–Rote–Timor–Batek waters. This decision effectively placed Lamalera's livelihood in a legal gray zone. Four years later, Minister of Environment and Forestry Regulation No. 20/2018 (Article 1) explicitly listed the sperm whale as a fully protected species, thereby criminalizing whaling without exception, including for subsistence or customary purposes.

The tension between recognition and control becomes evident when reading four interrelated statutes governing Indonesia's coastal and marine domains: the Law No. 27 of 2007 on the Management of Coastal Zones and Small Islands and its amendment Law No. 1 of 2014, alongside the Law No. 31 of 2004 on Fisheries and its amendment Law No. 45 of 2009. Together, these laws form a consistent pattern: the state rhetorically acknowledges customary law while normatively subordinating it to bureaucratic and technocratic control.

The Law No. 27 of 2007 formally commits the state to "recognize, respect, and protect" the rights of indigenous peoples over coastal and island territories (Article 61). Yet, such recognition is framed within a structure of administrative licensing, notably through the Right to Utilize Coastal Waters (*Hak Pengusahaan Perairan Pesisir*, HP-3) and state-led conservation zones. The amendment through Law No. 1 of 2014 appears to democratize access, granting communities the right to propose their traditional territories and fishing grounds for inclusion in the Coastal Zone and Small Islands Zoning Plan (RZWP-3-K), to submit objections, report violations, and demand compensation. However, all these rights remain conditional upon state validation. Recognition thus turns into legalization, a right that must be proposed and approved, rather than one inherently held by custom.

A parallel logic operates in the Law No. 31 of 2004 on Fisheries. Article 6(2) mandates that fisheries management "take into account customary law and/or local wisdom and community participation," but its explanatory note immediately restricts this by stating that customary law

applies only "insofar as it does not contradict national law." When the statute was amended through Law No. 45 of 2009, no substantive reinforcement was made to the position of indigenous communities or their governance rights. Instead, the revisions strengthened surveillance, licensing, and enforcement mechanisms, consolidating state authority over marine resources. As a result, local and indigenous communities are positioned merely as participants in state governance, not as autonomous legal subjects with self-defined jurisdiction.

Collectively, these four statutes produce a model of hierarchical and discriminatory legal pluralism. They acknowledge the existence of customary systems while denying them equal normative standing. The state monopolizes the power to define what counts as lawful tradition, translating living customary law into the language of spatial planning, permits, and environmental regulation (von Benda-Beckmann & Turner, 2018; von Benda-Beckmannn & von Benda-Beckmannn, 2006). In the case of Lamalera, this legal structure legitimizes the conversion of customary seas into a national conservation area and criminalizes the community's sacred whaling practice, an activity governed by stringent ecological, spiritual, and communal norms.

Rather than fostering genuine legal pluralism, this architecture absorbs pluralism into the monism of state law (Berman, 2020). Epistemically, it enforces a single mode of reasoning about sustainability and resource management, marginalizing indigenous cosmologies that frame the sea as a moral and reciprocal realm (Fricker, 2007). What emerges is not pluralism but epistemic homogenization, a system that appears inclusive yet systematically silences indigenous authority. This is the essence of discriminatory legal pluralism. A regime that permits difference only under the condition of control, sustaining recognition in form but domination in substance (Berman, 2020; Tamanaha, 2021).

International Conservation Regimes vs. Indigenous Rights

International law introduces another layer of normative conflict. Indonesia is a party to the 1982 United Nations Convention on the Law of the Sea (UNCLOS), ratified through Law No. 17 of 1985. The Convention obliges states to cooperate in the conservation of marine mammals and explicitly permits even stricter national protection. Following this obligation, Indonesia responded by prohibiting all forms of whaling within its jurisdiction.

Indonesia is also a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), ratified through Presidential Decree No. 43 of 1978. CITES lists the sperm whale (*Physeter macrocephalus*) under Appendix I of the CITES Convention, prohibiting all international trade in whale products. Yet, crucially, neither UNCLOS nor CITES requires a total ban on subsistence whaling for local purposes. Article 65 of UNCLOS allows states to adapt conservation measures to traditional practices within their own waters, while CITES focuses on cross-border commercial trade, not domestic subsistence use.

The International Whaling Commission (IWC), although Indonesia is not a member, has long recognized Aboriginal Subsistence Whaling (ASW): whale hunting by indigenous communities for cultural and nutritional purposes. The IWC grants limited quotas to communities in Alaska, Chukotka, Greenland, and St. Vincent under strict conditions: non-commercial use, ecological sustainability, and scientific oversight. This model demonstrates that conservation and customary subsistence can coexist through negotiated compromise.

Another key international framework is the Convention on Biological Diversity (CBD), ratified by Indonesia through Law No. 5 of 1994. Article 8(j) obliges states to "respect, preserve, and maintain the knowledge, innovations, and practices of indigenous and local communities relevant to the conservation and sustainable use of biological diversity." Article 10(c) further requires states to "protect and encourage customary use of biological resources in accordance with traditional cultural practices compatible with conservation." Together, these provisions provide a clear normative basis for recognizing the customary law of Lamalera, within which *Ola Nué*, the

traditional whale-hunting institution, operates as a moral, ecological, and legal framework governing human–nature relations.

The CBD's principles have since been extended through the Agreement on Biodiversity Beyond National Jurisdiction (BBNJ), ratified by Indonesia via Presidential Regulation No. 67 of 2025. Although the BBNJ Agreement governs areas beyond national jurisdiction, it strengthens the global expectation of equitable and inclusive ocean governance, emphasizing the role of traditional knowledge and local participation in marine conservation. This carries a persuasive moral and policy weight for Indonesia to integrate indigenous knowledge systems into its domestic marine management regime.

Human rights instruments further reinforce Lamalera's position. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007) affirms the rights of indigenous peoples to maintain their cultural traditions (Article 11), to own and manage their traditional lands and resources (Article 26), and to participate in environmental conservation through equal partnership (Article 29). Although UNDRIP is soft law and not legally binding, it articulates a global expectation that states treat indigenous cultural practices as part of their human rights obligations.

By UNDRIP's criteria, Lamalera clearly constitutes an indigenous community; it maintains historical continuity with its marine and terrestrial territory, possesses a distinct cultural identity, and operates under a functioning system of customary law that regulates ecological relations and social order. In principle, both Indonesia's Constitution and its international commitments imply that *Ola Nué*, as part of Lamalera's customary legal order, should be safeguarded as cultural heritage and a living law system.

Yet in practice, the state's legal framework places wildlife conservation norms above indigenous legal rights. Indonesia aligns itself with global species-protection mandates by enforcing a blanket whaling ban, while failing to incorporate international human rights and biodiversity norms, especially those in Articles 8(j) and 10(c) of the CBD, that recognize and promote sustainable customary practices. Thus, the conflict between global conservation regimes and Lamalera's customary law is not merely legal but epistemic, a clash between two ways of understanding conservation. One is defined by prohibition and control, the other by reciprocity, restraint, and moral balance between humans, the sea, and all living beings.

Epistemic Conflict: Technocratic vs. Spiritual Worldviews

While this article briefly engages with political ontology to signal the depth of conflict between technocratic conservation and Lamalera's moral ecology, it does not posit the existence of irreconcilable worlds. Rather, political ontology is used heuristically to illuminate why dialogue and policy negotiation repeatedly falter when one epistemic framework is asserted as universal and authoritative. In this sense, the analysis foregrounds epistemic inequality and legal mediation, rather than ontological incommensurability.

The tension surrounding Lamalera's whale-hunting tradition is not only a legal confrontation but a deeper epistemic clash, a conflict over what counts as legitimate knowledge about the sea, animals, and moral duty. For state agencies and international NGOs, whales are endangered biological species whose protection must be absolute. This is the logic of technocratic conservation: built on data, control, and prohibition. Within this worldview, every whale taken is a statistical loss to global biodiversity, and *Ola Nuâng-lefa Nué* is rendered as nothing more than illegal hunting.

For the people of Lamalera, however, the whale (*keta* or *lefa*) is not a resource but a spiritual being, an ancestor who voluntarily offers itself to the village in fulfillment of a sacred covenant between humans, the sea, and the divine (Bataona, 2001; Beding, 2008; Lelaona, 2016). *Ola Nué* is therefore not an act of extraction but an enactment of customary law, a moral and legal system that structures relations between people and nature (Bataona, 2001; Taum & Baryadi, 2024). Its

rules are clear. Calves and pregnant females must not be taken. Meat must be shared communally. Greed or waste is sanctioned. Within this moral ecology, to hunt without ritual sanction or communal consent would itself be a moral transgression (Lelaona, 2016).

When the state insists on calling this practice illegal, it performs what Miranda Fricker (2007) calls epistemic injustice, denying the authority of local knowledge systems to define their own moral universe. It is not simply the act that is criminalized but the worldview that sustains it. The power to name, to declare whales as protected species instead of ancestor-gifts, becomes a form of epistemic domination, one that replaces moral reciprocity with administrative control.

This condition reflects what Griffiths (1986) called weak legal pluralism, the state formally recognizes customary law yet confines it within the boundaries of national legality. The law acknowledges adat only when it does not contradict the state's own regulatory logic. Such pluralism functions as a hierarchy of arenas, where multiple normative systems coexist, but the decisive power of enforcement remains with the state (von Benda-Beckmannn & von Benda-Beckmannn, 2006). In Lamalera, the customary norms that regulate restraint, sharing, and ecological balance operate effectively within the community, yet they hold no standing within the state's conservation regime.

Tamanaha (2017) reminds us that these overlapping systems create interlegality, a legal mosaic where norms intermingle but remain unequal. Lamalera's *Ola Nué* exists in this hybrid space: internally coherent, externally precarious. Sally Falk Moore's (1973) notion of semi-autonomous social fields captures the dynamic well; the community maintains its own normative order, but that order is continuously penetrated by the coercive instruments of the state.

From the perspective of political ontology, such conflicts are not simply about divergent values but about profoundly different ways of ordering human–nature relations. The state's world is built upon a modernist ontology: nature as object, species as population, conservation as control (Blaser, 2013). Lamalera's world is relational. The sea is a living moral landscape inhabited by sentient beings who participate in reciprocal exchange. When the state imposes its ontology as universal, it performs what Blaser calls ontological erasure, marginalizing alternative moral ecologies within conservation governance.

This epistemic asymmetry explains why negotiations between officials and Lamalera's elders often collapse. Both sides speak from epistemic frameworks that are difficult to translate into one another under existing power relations. One in the language of quotas and species management, the other in the idiom of kinship, ritual, and obligation. Yet, ironically, Lamalera's customary rules embody many of the same principles celebrated in Elinor Ostrom's theory of the commons, defined membership, community monitoring, graduated sanctions, and collective decision-making (Ostrom, 2011). The problem, therefore, is not the absence of regulation, but the state's refusal to recognize a different epistemology of regulation.

Understanding Lamalera through the lens of pluralism and ontology thus reveals that the conflict is neither archaic nor exotic; it is structural. The state's legal architecture is built upon a singular epistemology that cannot accommodate alternative moral ecologies. A genuinely plural legal order would not merely tolerate Lamalera's customary law, but engage with it as a parallel system of environmental governance. Such an approach aligns with the CBD Articles 8[j] and 10[c], which obliges states to respect and integrate traditional knowledge into conservation practices. This approach strengthens conservation by decolonizing it, embracing diverse ways of knowing the sea to keep life and balance enduring.

Language and Framing: "Hunting" vs. "Ancestral Way"

If the epistemic conflict between Lamalera and the state lies in competing ways of understanding whales and the sea, it becomes most tangible in language, in how the practice is named and narrated.(Taum et al., 2024) Government agencies and conservation NGOs consistently frame

Lamalera's activity as "*berburu paus*" (whale hunting) or simply whaling. The term carries connotations of violence, illegality, and greed, evoking the imagery of industrial exploitation. The Ministry of Marine Affairs and Fisheries (through Decree No. 5/KEPMEN-KP/2014 on the Savu Sea National Marine Conservation Area) classifies Lamalera's customary waters within a protected zone, thus rendering any whale capture technically illegal. Similar framings appear in national media, for example, CNN Indonesia describes Lamalera as the Indonesian whale-hunting village, implying a problematic past rather than a living culture (CNN_Indonesia, 2025).

For Lamalerans, this terminology distorts reality. In their lexicon, the practice is never reduced to the act of killing. It is called *Ola Nué*, the ancestral way, a sacred and disciplined system encompassing ritual offerings to the sea and ancestors, collective rules on when and how a whale may be taken (Taum et al., 2024), and the ritualized redistribution of meat through the *du-hope* barter network (Aur et al., 2023). As one elder explained during an interview in May 2024, "We do not hunt whales; we live with them. *Ola Nué* is our way of honoring life, not destroying it." Another community leader added, "When they call us hunters, they make us criminals. But this is our heritage, blessed by our ancestors and by God."

Such linguistic reduction is not a trivial matter. It is an act of epistemic authority. By naming *Ola Nué* as whale hunting, state law and external conservation discourse assert the power to define what the practice really is, while silencing the community's own definition. The politics of naming thus becomes a politics of legitimacy. One narrative enshrined in law, the other delegitimized as folklore. The consequences are not abstract. When Lamalerans hear officials and journalists portray them as lawbreakers, they feel humiliated and distrustful. "Why should we trust people who call our prayer a crime?" a local *lamafa* (whale spearer) asked rhetorically during a focus group. This mistrust undermines conservation programs that might otherwise succeed through dialogue.

Whoever controls the narrative, whaling as crime or whaling as culture, ultimately controls the field of legitimacy. If conservation efforts continue to impose language that invalidates local meaning, collaboration will remain impossible. A discursive shift is therefore essential, recognizing *Ola Nué* not as a relic of barbarism but as a living cultural institution guided by ecological restraint and spiritual accountability. Only by changing the terms of conversation can legal and cultural frameworks begin to converge.

Power Asymmetry and the Reconciliation of Normative Orders

The conflict between the Indonesian state and the Lamalera community extends far beyond the battle over meaning and language. It also manifests in the procedural asymmetries of conservation governance. The establishment of the Savu Sea National Marine Protected Area (MPA) in 2014 was carried out through a centralized, top-down process without any mechanism of Free, Prior, and Informed Consent (FPIC) from Lamalera villagers. The initial zoning plan, issued under Ministerial Decree No. KEP.5/MEN/2014 and No. KEP.6/MEN/2014, encompassed nearly all of Lamalera's customary fishing grounds, effectively banning their whale harvest altogether. Such a process typifies what international observers have described as "outside-in" conservation, a design that privileges external objectives over local participation (Reef Resilience Network, 2022). For Lamalerans, it was more than a technical imposition. It was a symbolic erasure. As one village elder explained, "When the government banned our sea without asking, it felt like losing our breath. The sea is not only our food. It is our ancestor." A *lamafa* voiced the same despair, "They talk about conservation, but for us it means survival. To forbid us without giving a way to live is the same as killing us."

The confrontation revealed a stark asymmetry of power. The state wielded formal authority; laws, maps, and enforcement, while the community relied on moral authority rooted in custom, ritual, and spiritual legitimacy. Deprived of any formal channel to participate, villagers refused

to comply. Instead, they organized protests, lobbied local politicians, and mobilized the media. This grassroots pressure ultimately compelled the government to revise the MPA boundaries, excluding Lamalera's coastal waters from the no-whaling zone.

Yet the problem runs deeper than mapping or enforcement; it lies in the imbalance between two coexisting normative orders. On one side stands state law, anchored in international biodiversity regimes such as CITES and the Convention on Biological Diversity (CBD). On the other side stands Lamalera's customary law, expressed through the system of *Ola Nuâng-lefa* Nué, a customary legal–moral system, rooted in ancestral authority and regulating relations between humans and the sea (Aur et al., 2023).

These systems operate on unequal grounds. The state possesses coercive instruments; courts, police, decrees, while adat endures through lived legitimacy. Yet the latter continues to command compliance because it is embedded in social ethics, not external punishment. When national law disregards this moral infrastructure, conservation risks turning into what activists call ecological colonialism, an environmental agenda that displaces local sovereignty under the pretext of saving nature (Taum et al., 2024).

Reconciling these normative orders therefore requires more than legal reform. It demands a structural shift in recognition. *Ola Nué* must be treated not as folklore but as a living legal-ecological institution (Lelaona, 2016). Practical compromise could take the form of subsistence whaling quotas or licenses, jointly managed by state authorities and customary elders, similar to co-management schemes in Greenland and Alaska. Embedding FPIC and co-governance principles, as articulated in the UN Declaration on the Rights of Indigenous Peoples, would align Indonesia's conservation practice with both justice and ecological sustainability. True conservation cannot be achieved through prohibition alone. It must rest on dialogue and recognition, protecting not only endangered species but also the people whose ancestral ethics have long sustained them (Trialfhianty et al., 2025).

Comparative Legal Analysis

The following cases are introduced as analytical counterpoints, illustrating how similar indigenous subsistence practices are accommodated when conservation governance recognizes customary authority as a legitimate legal partner rather than a tolerated exception. To put Lamalera's situation in perspective and identify pathways toward resolution, it is useful to compare how other jurisdictions have reconciled indigenous hunting traditions with conservation law. This section examines two scales of comparison: (1) global cases where indigenous marine mammal hunting is legally recognized and co-managed, and (2) a comparative case of traditional whaling in the Faroe Islands, which highlights how differing legal frameworks can lead to divergent outcomes.

Global Models of Indigenous Marine Conservation

Several countries with indigenous maritime communities have developed legal frameworks that accommodate subsistence hunting of marine species within conservation regimes. These examples demonstrate that cultural traditions and biodiversity protection need not be mutually exclusive. In Canada's Arctic, Inuit communities have constitutionally protected harvesting rights, including limited whaling. Section 35 of the Canadian Constitution (Government of Canada, 1982) recognizes existing Aboriginal and treaty rights, which courts have interpreted to include subsistence hunting. In 2024, Canada reinforced this by enacting Bill S-13, which added a non-derogation clause to its federal Interpretation Act, mandating that all federal laws be interpreted consistently with indigenous rights. This legislative move aligns with Canada's obligations under UNDRIP and signals that conservation laws must not extinguish indigenous practices (Hocking,

2002). In addition, Canada works within the International Whaling Commission's Aboriginal Subsistence Whaling (ASW) system, securing quotas for Inuit communities to take bowhead and beluga whales for subsistence. These harvests are co-managed with strict community rules; only licensed Inuit hunters may participate, catches are capped based on scientific and cultural criteria, and distribution of whale meat is communal and non-commercial. This case shows that a state can uphold global conservation commitments while respecting indigenous self-determination, through participatory management and legal safeguards (Wenzel, 2009).

The Sami people of northern Scandinavia are not traditionally whalers, but Norway provides an instructive example of integrating indigenous rights into marine governance. Norway continues limited commercial whaling (of minke whales) under objection to the IWC moratorium, but more relevant here is Norway's recognition of Sami rights in coastal resource management (Hocking, 2002). The Marine Living Resources Act 2008 explicitly acknowledges the importance of Sami traditional knowledge and gives Sami communities a role in managing fisheries and coastal zones. In 2024, the Norwegian Parliament went further by formally apologizing for past injustices against the Sami and committing to stronger indigenous rights protections. While Sami subsistence does not include whale hunts, the principle in Norway's legal framework is that indigenous cultural practices and knowledge must inform conservation policies (Bjørklund, 2003). This suggests that if Indonesia had a similar approach, Lamalera's norms could be seen as part of the solution rather than the problem. Norway's case also shows that recognizing indigenous environmental governance can extend beyond hunting to broader co-management of marine resources.

In northern Australia, Torres Strait Islander communities have long hunted marine species like dugong and green turtle for subsistence and ceremony. Australia's Native Title Act 1993 and subsequent Indigenous Land Use Agreements acknowledge these rights. Importantly, community-driven Management Plans for dugong and turtle hunting have been established, blending customary rules with scientific monitoring. The principle of FPIC is observed in creating marine protected areas in the Torres Strait—no-take zones are negotiated with Islanders rather than imposed. In 2013, UNESCO recognized the traditional marine knowledge of the Torres Strait as an example of Intangible Cultural Heritage, underlining its global value. These arrangements involve setting modest quotas, seasonal restrictions, and reporting requirements, co-enforced by indigenous rangers and government agencies. The Torres Strait example demonstrates that empowering indigenous communities as co-managers leads to both cultural survival and conservation outcomes (e.g., stable dugong populations) (Hocking, 2002). For Indonesia, it illustrates that granting Lamalera a legal voice and stewardship role could strengthen conservation rather than weaken it.

Common to these cases are affirmative recognition of indigenous practices, collaborative governance structures, and the integration of local knowledge into conservation science. By contrast, Indonesia's current top-down model offers no such recognition. Lamalera is not legally acknowledged as a rights-holding community or a stakeholder in marine conservation decisions. The lesson is that pluralistic legal design, whether through statutory carve-outs, co-management agreements, or constitutional guarantees, can harmonize conservation with cultural rights. Lack of recognition, on the other hand, leaves communities like Lamalera in a precarious position, vulnerable to shifting political winds and enforcement crackdowns (Taum & Baryadi, 2024).

Grindadráp Versus Lamalera

A more focused comparison can be made between Lamalera's subsistence whaling and the grindadráp pilot whale hunts in the Faroe Islands (a self-governing territory of Denmark). Both involve small indigenous communities hunting whales, but their scale, methods, and legal treatment differ greatly, yielding different conservation debates.

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In the Faroe Islands, Grindadráp is the centuries-old practice of driving pods of pilot whales into shore for communal slaughter. Legally, it is authorized by Faroese law. Denmark (under whose sovereignty the Faroes fall) defends the practice internationally as a cultural right. Hundreds of pilot whales (*Globicephala spp*.) are taken annually, far more than Lamalera's typical catch of a few dozen sperm whales. Modern technology has augmented the Faroese hunt: motorboats herd whales into bays and communication systems coordinate communities when a pod is sighted. The slaughter method, using a spinal lance, is designed for rapid killing, though animal welfare critics point out it can still be prolonged and stressful for the whales (Mamzer, 2021). Internationally, Grindadráp draws harsh criticism from animal welfare and conservation groups for its scale and perceived cruelty. Sea Shepherd and other NGOs have campaigned against it, characterizing it as barbaric and unsustainable. Locally, however, the practice is defended as an essential source of food and a core element of Faroese identity. Social scientists note that external pressure has, if anything, strengthened local resolve to continue the hunts (Singleton, 2016). Some researchers frame Grindadráp as a form of ritual slaughter that resists global ethical norms in favor of local sovereignty (Mamzer, 2021), while others interpret it as a form of communal resource sharing that pushes back against market capitalism (Bogadóttir & Olsen, 2017). Environmentally, pilot whale populations in the North Atlantic are not considered endangered, and catch levels are monitored, though questions of pollution (mercury in whale meat) and shifting baselines are raised.

Lamalera's *Ola Nuâng-lefa Nué* differs on nearly every point. It is a much smaller-scale practice focused on sperm whales, which reproduce more slowly than pilot whales and are globally protected. However, Lamalera's internal norms are extremely restrictive. Only mature male sperm whales may be taken, never calves or females, ensuring breeding populations are not targeted. The hunting territory is limited to the village's adjacent sea (within about 5 nautical miles), and hunting is only done during a specific season (April–October) when the seas are calm. Traditional methods are used, hand-thrown harpoons from non-motorized wooden boats (called *pledang*), which inherently limit the catch capacity. Catches in recent decades average only a few whales per year, and some years none at all. Each whale's meat and oil are shared across the community and with inland villages through barter, rather than entering any commercial market. In short, Lamalera's practice is a tightly bound subsistence system with built-in conservation safeguards, both practical and spiritual (Aur et al., 2023).

Legally, the divergence is stark. The Faroe Islands, with Danish support, have codified and diplomatically defended Grindadráp even amid global outcry. In Indonesia, by contrast, *Ola Nuâng-lefa Nué* has no formal legal protection or recognition. It survives largely due to the community's remote location, sympathetic local officials who quietly tolerate it, and the reluctance of authorities to provoke conflict by enforcing the law harshly. The Indonesian government has not championed Lamalera's case internationally, nor carved out a legal exception at home. MoEF Regulation P.20/2018 makes no distinction between Lamalera's one-whale-at-a-time hand-harpoon fishery and large-scale commercial whaling. All are flatly illegal. As a result, Lamalera lives in a state of legal uncertainty, a tradition openly practiced, yet formally defined as a crime. These contrasting outcomes show how state posture can either consolidate or erode the legitimacy of indigenous practices. In the Faroes, proactive legal inclusion and state advocacy have enabled local whaling practices to persist despite sustained international criticism. In Indonesia, the absence of meaningful legal pluralism has left Lamalera marginalized: the practice endures through local resilience and tacit toleration, yet remains vulnerable to sudden criminalization. (Aur et al., 2023).

This comparison underscores that the key variable is not the nature of the practice alone. Grindadráp, indeed, is arguably far less sustainable and more controversial than Lamalera's hunt. However, the legal and political framework in which it is embedded. Where the Faroese enjoy a degree of self-determination and state backing, Lamalera faces quiet criminalization. The lesson

for Indonesia is that conservation policy is not implemented in a vacuum; it is mediated by state approaches to indigenous rights and legal design. Effective conservation of whales in an indigenous context cannot be achieved by simply outlawing local traditions; it requires engaging with and, where appropriate, accommodating those traditions through legal pluralism. The next sections turn to how Lamalera's own customary system operates as a form of conservation governance and how a more inclusive approach could be charted for the future.

Seen in light of these comparative contexts, Lamalera's predicament is not an anomaly of tradition but the product of a legal architecture that systematically subordinates customary law within a hierarchical plural order.

The Commons, Custom, and Conservation

Far from being an instance of open-access exploitation, Lamalera's *Ola Nuâng-lefa Nué* represents a remarkably sophisticated form of community-based resource governance. For generations, customary law has ensured that whaling remains at a sustainable subsistence scale, embodying what Elinor Ostrom would recognize as a robust commons regime (Forsyth & Johnson, 2014; Ostrom, 2011). This section explores the internal rules, social organization, and cultural values that make *Ola Nué* a living system of conservation, and how these principles intersect with broader theories of the commons.

Social Structure and Spirituality

Lamalera's whaling tradition is embedded in a tightly knit social structure and a spiritual worldview that together function as an informal institution of environmental regulation. The community is organized into clan lineages (lewo), each with specific roles in the whaling enterprise. Some provide the lamafa or harpooners and their crews, others serve as boat owners, and others preside over ritual life. Authority is shared among customary elders and clan heads who decide when the season begins and mediate disputes.

Before any whale can be taken, the entire community undertakes ritual preparation. The season opens with the Misa Lefa, a special Catholic Mass held annually on May 1, coinciding with calm seas and the onset of the hunting period (Lelaona, 2016). Catholic liturgy and indigenous cosmology merge. The parish priest celebrates the Eucharist on the beach, while elders invoke ancestral spirits on Mount Labalekan (Barnes, 1997; Beding, 2008; Lelaona, 2016). Through this inculturation, Catholic ethics of stewardship reinforce adat norms, sacralizing the rules of whaling as part of divine and natural order (see Figure 1).

Lefa Mass: Annual Eucharistic. Whales are venerated as both God's creation and ancestral kin in Lamalera's origin narratives (Lelaona, 2016). This spiritual framing has concrete regulatory effects. It moralizes the hunt. Whaling is done with prayer, gratitude, and restraint, as an act of reciprocity with the sea. Violating customary prohibitions, such as killing a female whale or straying beyond sacred boundaries, is believed to anger the sea guardian (*Seto Tiwut*), bringing storms or collective misfortune (Aur et al., 2023). As a result, moral and spiritual discipline achieve what formal enforcement might. They sustain compliance and prevent overexploitation (Bataona, 2001; Trialfhianty et al., 2025).

Sperm Whale Caught by Lamalera. Lamalera's customary law governing whaling exemplifies living law, norms that are socially binding without being codified in state statutes. Passed down orally and refined through practice, these rules have adapted to ecological changes and communal needs. The traditional capture of a sperm whale by Lamalera whalers is illustrated in Figure 2. Four elements define the Lamalera whaling code (Barnes, 1997; Bataona, 2001):

Figure 1. The Lamalera indigenous community attending the "Lefa Mass" led by the Parish Pastor of Saints Peter and Paul Lamalera on April 30, 2024.
Source. Field documentation, Lamalera, 2024.
Note. The ritual marks the opening of the traditional fishing season.

(a) Species Limitation: Only adult male sperm whales (*Physeter macrocephalus*) may be caught. Females, especially pregnant ones, and calves are strictly forbidden. This ensures reproductive capacity and mirrors modern conservation science emphasizing the protection of breeding individuals (Barnes, 1997).
(b) Territorial Boundaries: Hunting is limited to traditional waters, roughly five nautical miles offshore between Capes Atadei and Suba. Outsiders may not hunt here without permission, and Lamalerans seldom venture beyond.
(c) Seasonal Restraint: The hunt occurs only during the calm season (April to October). During the monsoon months, when the seas are rough, hunting ceases entirely. This cyclical rhythm naturally prevents continuous pressure on the species.
(d) Traditional Technology: Only sail- and oar-powered wooden pledang boats and hand-thrown harpoons are used. Engines and firearms are banned. The resulting low efficiency limits both range and catch, reinforcing a principle of non-commodification.

Customary Whale Distribution. Enforcement rests on social pressure and spiritual sanction. Violations are believed to trigger supernatural retribution and social shame. Such transgressions are exceedingly rare. In effect, Lamalera's customary law functions as an unwritten conservation plan, maintaining harvests at sustainable levels for over a century. Studies confirm that Lamalera's limited catches have not produced measurable declines in regional sperm whale populations

Figure 2. One of four sperm whales caught by Lamalera's traditional fishermen in November 2022.
Source. Field documentation, Lamalera, 2024.
Note. The whale was taken using hand-thrown harpoons from non-motorized pledang boats, reflecting the community's customary and small-scale subsistence hunting practice.

(Barnes, 1997). The customary distribution of whale meat within the community, following established social roles and obligations, is illustrated in Figure 3.

In Ostrom's terms, *Ola Nué* fulfills all key design principles of effective commons management: clearly defined user groups, locally tailored rules, communal monitoring, graduated sanctions, and conflict-resolution forums through adat councils. The "tragedy of the commons" predicted by Hardin is thus avoided, not through external control but through internal institutions and shared moral order.

From the community's standpoint, the state's blanket ban on whaling is therefore illegitimate and even dangerous. Without *Ola Nué*, they fear ecological imbalance and social breakdown. As one elder put it, "If we cannot hunt, we cannot eat, we cannot pray; it would kill us as a people." To them, customary law is not a relic but the guardian of equilibrium between humans and the sea. Interviews with government officials revealed little awareness of these detailed norms; many assumed that, absent state control, hunting would be unregulated. This misunderstanding reinforces a technocratic bias that only formal law protects whales, when in fact the whales have long been safeguarded by adat restrictions themselves.

Women and the Du-Hope *Economy*

A distinctive feature of Lamalera's commons system is the central role of women in distributing and bartering whale products through the *du-hope* exchange network. Once a whale is landed

Figure 3. Fishermen distribute whale meat and skin to all participants directly involved in the hunt and the butchering on the beach.
Source. Field documentation, Lamalera, 2024.
Note. In this customary distribution, the poor, elderly, and widows also receive their rightful share as an expression of communal solidarity.

and butchered, shares of meat and oil are allocated to every contributor, crew, boat owners, landowners, widows of past hunters. Women, known as *pneta alep*, carry these portions inland to trade for agricultural goods such as maize, tubers, and vegetables unavailable on the coast (Aur et al., 2023). The role of Lamalera women in preparing and exchanging whale products through the pneta alep system is illustrated in Figure 4.

This barter system performs multiple ecological and social functions. It supplies Lamalera with carbohydrates, provides protein to inland communities, and reinforces inter-village solidarity. Through *du-hope*, Lamalera is economically and ritually linked with dozens of interior settlements, forming a resilient web of reciprocity (*prefo*). Women are both traders and cultural emissaries, sustaining kinship across ecological zones.

From a conservation perspective, *du-hope* ensures that a single whale benefits many households, reducing pressure on other species and diversifying subsistence sources. Yet state conservation discourse rarely acknowledges this. Policy documents focus on population counts and habitat metrics, neglecting the socio-economic ecology of whaling. As Lamaleran women told interviewers, “The government sees the whale, not the people.” Because women’s labor underpins this system, any disruption to whaling disproportionately undermines women’s livelihoods and community nutrition. Legal pluralism analysis must therefore account for these gendered dimensions of the commons. Women are not peripheral actors but custodians of both culture and sustainability.

Figure 4. Pneta Alep, Lamalera women traders, prepare and dry whale meat before bartering it with inland farmers for food and daily goods.
Source. Field documentation, Lamalera, 2024.

Lamalera's customary system demonstrates that indigenous commons management can align organically with conservation objectives. Its institutions integrate ecological knowledge, moral restraint, and social equity into a coherent regime that has sustained both people and whales. The assumption that only state bans can protect endangered species is thus misguided. *Adat* (customary system) has done so for centuries. However, this internal sustainability is jeopardized when external legal regimes deny recognition. The resulting friction between *adat* and statutory law undermines a functioning conservation order by delegitimizing its norms. The way forward is to design legal and policy arrangements that bridge these systems, allowing *Ola Nué* to continue within a framework of co-governance and mutual accountability. True conservation, as Lamalera

teaches, depends not only on protecting species but on sustaining the human institutions that have long protected them.

Pneta alep: Lamalera Women

Inclusive Legal Mediation and Policy Futures

Resolving the conflict in Lamalera requires more than regulatory fixes. It calls for a fundamental rethinking of how law, culture, and ecology interact. A durable solution cannot emerge from unilateral decrees or temporary political tolerance. It must be built through a process of inclusive legal mediation that brings together the state, the Lamalera community, and other stakeholders, such as the Church and conservation NGOs, as equal partners in managing their shared seascape. Such a framework would recognize the coexistence of different sources of law and knowledge, and ensure that conservation policy is designed with the community, not for it.

The first foundation of this approach is explicit legal recognition of *Ola Nuâng-lefa Nué* within Indonesia's legal system. What is now treated as an anomaly should instead be acknowledged as a lawful and legitimate practice of an indigenous community. This recognition could take the form of amendments to the Ministry of Environment and Forestry's Regulation No. P.20/2018 on protected species or related laws, introducing a cultural subsistence clause for Lamalera. Like Aboriginal Subsistence Whaling provisions elsewhere, it would legalize a strictly limited, non-commercial hunt under customary rules jointly defined by the community and the state, setting clear limits on species, methods, and quotas based on ecological data. Recognition could also extend through broader legislative reform, such as amending the Coastal and Small Islands Management Law (No. 27/2007) to incorporate community-based resource governance, following the logic of Constitutional Court Decision No. 35/PUU-X/2012, which affirmed that customary forests are not part of state forests. By recognizing Lamalera in national law, Indonesia would not only prevent the criminalization of a centuries-old tradition but also empower the community as a partner in achieving conservation goals.

Legal reform, however, will mean little without institutional dialogue. To operationalize this recognition, a co-management mechanism is essential, one that institutionalizes negotiation rather than confrontation. A Three-Pillar Forum for the Savu Sea could serve this function, gathering *adat* leaders, conservation authorities, and church or civil-society mediators in regular deliberations. The forum would discuss and agree on practical matters such as catch quotas, timing of hunts, and complementary programs like habitat protection or community-led eco-tourism. Decisions would be made through consensus, not hierarchy. This participatory structure echoes successful co-management experiences elsewhere, where shared authority fosters trust and compliance (Berkes, 2017). It would also become a platform for integrating scientific and local ecological knowledge, a practical expression of interlegality that allows different legal and epistemic systems to interact constructively.

A related principle that must guide any future policy is FPIC. Had FPIC been properly applied in 2014, when the Savu Sea Marine Protected Area was drawn up, Lamalera would likely have been designated as a cultural-use zone from the start, avoiding years of distrust. FPIC, as articulated in the UN Declaration on the Rights of Indigenous Peoples, requires that affected communities are engaged from the earliest stages of decision-making, provided with full information, and given a decisive voice or veto over measures that affect their rights (Papillon & Rodon, 2020). Applying FPIC in Lamalera would mark a shift from the old outside-in model of conservation to a partnership model rooted in consent and accountability.

Inclusive mediation also demands bridging the epistemic divide that has long separated the state's technocratic conservationism from Lamalera's spiritual ecology. Conservation should not

strip away cultural meaning but build upon it. Rituals such as *Misa Lefa*, which already function as moral checks on hunting (Lelaona, 2016), could be supported as part of stewardship initiatives, linking theological and ecological ethics. Environmental education could be framed through both scientific and spiritual lenses, showing how protecting breeding females aligns with both Catholic stewardship and *adat* law. Government officers also need to be sensitized to indigenous ways of knowing. As one fisheries official in Kupang reflected, "we need a middle path, a win–win solution between species protection and community survival" (interview, May 21, 2024). A safe deliberative space, like the proposed forum, would allow such conversations to happen without fear or prejudice, letting each side speak its own language. The state through regulation, and the community through lived experience.

Pluralism does not mean an absence of rules. It means shared responsibility. Under a co-managed framework, Lamalera could continue its limited hunts under periodically reviewed conditions. If population surveys indicated stress, the community could voluntarily reduce or suspend the hunt, as they have done in lean years. Conversely, when data confirm stability, quotas could be adjusted through dialogue. The same framework could bring tangible benefits to the community, improved fisheries, livelihood diversification, or cultural tourism, if desired and controlled by the people themselves. Experiences from Canada and Australia demonstrate that when indigenous autonomy is respected, conservation outcomes improve (Berkes, 2017).

In essence, an inclusive legal mediation approach in Lamalera would combine legal reform, co-management, FPIC, and epistemic dialogue into one framework of shared governance. It would replace the binary of state versus *adat* with a partnership based on mutual respect and accountability. If implemented sincerely, such a framework could transform Lamalera from a site of legal tension into a model of community-led conservation, preserving not only a species but the dignity and identity of the people who have long cared for it.

Conclusion

The Lamalera case demonstrates that sustainable whale conservation and equitable marine governance in the Savu Sea can only be achieved through a plural legal framework grounded in environmental justice. *Ola Nuâng-lefa Nué* is not merely an economic pursuit but a moral-ecological system that unites livelihood, spirituality, and collective identity. Its erosion under state conservation law reflects not a simple policy failure, but a deeper epistemic conflict, between a technocratic worldview that sees whales as biological data and a cosmological one that sees them as kin within a sacred ecology. As one official acknowledged, past conservation efforts were designed from the outside in, not from the inside out, revealing how external authority displaced local stewardship.

Viewed through the lens of critical legal pluralism, Lamalera exposes the limits of singular legality. The village's customary law, church ethics, and state regulations coexist not as parallel systems but as overlapping fields of power that constantly negotiate legitimacy. Drawing on insights from Griffiths, Benda-Beckmann, and Santos on plural legal orders, and from Ostrom on commons governance, this study shows that conservation is not a neutral scientific project but a contested moral terrain. The state's universalizing law treats whales as protected commodities; Lamalera's living law treats them as participants in a covenant of reciprocity. Recognizing this distinction is central to ecological justice; true conservation protects both species and the normative worlds that sustain them.

Taken together, the Lamalera case shows that outcomes of conservation under legal pluralism are shaped less by the mere coexistence of normative orders than by the unequal authority through which those orders are recognized, governed, and enforced. Read within state–community relations and comparative conservation settings, legal pluralism emerges here not as a neutral

backdrop, but as a power-laden mode of governance and a site of contestation that produces divergent outcomes under fluid territorial and institutional conditions.

To move forward, Indonesia's conservation policy must be reframed around three principles: recognition, participation, and equity. Recognition means acknowledging that multiple normative orders; state, *adat*, and religious, can coexist, each possessing its own legitimacy. Participation requires the substantive involvement of indigenous communities in decision-making, consistent with the principles of Free, Prior and Informed Consent (FPIC) and co-management. Equity demands a fair distribution of conservation burdens and benefits, ensuring that indigenous peoples do not bear disproportionate costs for global environmental goals. In practice, this means treating Lamalera not as an anomaly to be disciplined but as a partner in stewardship whose knowledge, rituals, and moral discipline enrich conservation itself.

The findings contribute to broader debates in legal geography and environmental governance by showing that spaces of conservation are also spaces of law. The Savu Sea is not merely a marine territory but a legal ecology shaped by multiple sovereignties, state regulations, *adat* authority, and religious ethics that define who may act, speak, and belong. When conservation is enforced through a monocultural legal lens, it risks reproducing colonial hierarchies of exclusion. When pursued through pluralism and justice, it opens the possibility of co-producing legality, where state and community generate rules together through dialogue and mutual accountability.

In this sense, whale conservation in Lamalera cannot be separated from the pursuit of ecological justice that respects both ecosystem integrity and the rights of communities who live within it. Ensuring that Lamalera remains a subject of law rather than an object of regulation is therefore not a cultural concession, but a legal necessity. Conservation regimes that disregard local law and knowledge risk reproducing domination rather than sustainability. By contrast, conservation grounded in an equal encounter among state law, adat authority, and Church ethics creates space for shared responsibility and accountability. Such an approach does not weaken conservation, but strengthens it by anchoring protection in locally enforced norms of restraint and reciprocity. Governing through difference, rather than against it, thus offers the most credible path toward a just and sustainable future for both Lamalera's community and the whales with whom they coexist.

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Ethical Considerations

This study was conducted in accordance with institutional ethical standards. The research was carried out in dialogue with community values and local norms of respect, ensuring that cultural protocols were strictly observed throughout the research process.

Consent to Participate

Prior to all interviews and participant observations, informed consent was obtained from all participants, including community elders, parish leaders, and government officials. Participation was entirely voluntary, and confidentiality was maintained throughout the study.

Author Contributions

All authors contributed equally to the conception, fieldwork, analysis, and writing of this manuscript. Alexander Aur prepared the initial draft; all co-authors reviewed, edited, and approved the final version for submission.

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Data Availability Statement

The qualitative data supporting the findings of this study, including interview transcripts, field notes, and archival materials, are not publicly available to protect participant confidentiality and community privacy. De-identified excerpts may be shared upon reasonable request to the corresponding author, with prior approval from the Lamalera community and the Research Ethics Committee of Soegijapranata Catholic University. Researchers interested in collaborative analysis or comparative studies are welcome to contact the authors to discuss potential data-sharing agreements conducted under ethical and reciprocal research principles.

References

Aur, A., Widianarko, Y. B., & Dewi, Y. T. N. (2023). Social-ecological values and practices of indigenous whale fishing community in Lamalera, East Nusa Tenggara. *Celt: A Journal of Culture, English Language Teaching & Literature*, *23*(1), 111–137. https://doi.org/10.24167/celt.v23i1.4879

Barnes, R. H. (1997). *Sea hunters of Indonesia: Fishers and weavers of Lamalera*. Clarendon Press.

Bataona, A. O. P. T. (2001). *Masyarakat Nelayan Lamalera dan Tradisi Penangkapan Ikan Paus* [The Lamalera fishing community and the tradition of whale hunting]. Lembaga Gelekat Lefo Tanah.

Beding, A. (2008). *Pater Bernhard Bode, SVD Rasul Pulau Lembata* [*SVD Rasul Pulau Lembata* [SVD Apostles of Lembata Island]]. Lamalera.

Bens, J. (2024). Revisiting forum shopping: Navigating normative pluralism, navigating sentiments. *Legal Pluralism and Critical Social Analysis*, *56*(3), 517–533. https://doi.org/10.1080/27706869.2024.2419226

Berkes, F. (2017). Environmental governance for the anthropocene? social-ecological systems, resilience, and collaborative learning. *Suistainability*, *9*(7), 1232. https://doi.org/10.3390/su9071232

Berman, P. S. (2020). *Global legal pluralism* (P. S. Berman, Ed.). Oxford.

Bjørklund, I. (2003). Indigenous peoples: Resource management and global rights. *Rangifer*, *23*(2), 75. https://doi.org/10.7557/2.23.2.364

Blaser, M. (2013). Ontological conflicts and the stories of peoples in spite of Europe: Toward a conversation on political ontology. *Current Anthropology*, *54*(5), 547–568. https://doi.org/10.1086/672270

Bogadóttir, R., & Olsen, E. S. (2017). Making degrowth locally meaningful: The case of the Faroese grindadrap. *Journal of Political Ecology*, *24*(1), 504–518. https://doi.org/10.2458/v24i1.20888

Carruthers, D. V. (2008). Environmental justice in Latin America? Global and conceptual challenges. In D. V. Carruthers (Ed.), *Environmental justice in Latin America* (pp. 25–75). MIT Press. https://doi.org/10.7551/mitpress/7676.003.0001

CNN_Indonesia. (2025). *Lamalera di Mata Andy Noya dan Kesalahpahaman soal Desa Perburuan Paus* [Lamalera in the Eyes of Andy Noya and Misunderstandings about Whaling Villages]. https://www.cnnindonesia.com/gaya-hidup/20240305163136-269-1070771/lamalera-di-mata-andy-noya-dan-kesalahpahaman-soal-desa-perburuan-paus?utm_source=chatgpt.com

De Sousa Santos, B. (2020). *Toward a new legal common sense: Law, globalization, and emancipation*. Cambridge University Press. https://doi.org/10.1017/9781316662427

Forsyth, T., & Johnson, C. (2014). Elinor Ostrom's legacy: Governing the commons and the rational choice controversy. *Development and Change*, *45*(5), 1093–1110. https://doi.org/10.1111/dech.12110

Fricker, M. (2007). *Epistemic injustice: Power & ethics of knowing*. Oxford University Press. https://circulosemiotico.wordpress.com/wp-content/uploads/2018/05/fricker-miranda-epistemic-injustice.pdf

Government of Canada. (1982). *Constitution Act, 1982. Being schedule B to the Canada Act 1982 (UK), c. 11*.

Griffiths, J. (1986). What is legal pluralism? *The Journal of Legal Pluralism and Unofficial Law*, *18*(24), 1–55. https://doi.org/10.1080/07329113.1986.10756387

Hardin, G. (1968). The tragedy of the commons. *Science*, *162*(3859). https://doi.org/0.1126/science.162.3859.1243

Hocking, B. A. (2002). Placing indigenous rights to self-determination in an ecological context. *Ratio Juris*, *15*(2), 159–185. https://doi.org/10.1111/1467-9337.00203

Lelaona, Y. A. (2016). *Dari Laut Menuju Tuhan* [From the Sea to God]. Kanisius.

Mamzer, H. M. (2021). Ritual slaughter: The tradition of pilot whale hunting on the Faroe islands. *Frontiers in Veterinary Science*, *8*, Article 1–13. https://doi.org/10.3389/fvets.2021.552465

Ministerial of Marine Affairs and Fisheries Decree. (2014). *Keputusan Menteri Kelautan dan Perikanan No. 5 Tahun 2014 tentang Kawasan Konservasi Perairan Nasional Laut Sawu Dan Sekitarnya Di Provinsi Nusa Tenggara Timur* [Ministerial Decree of the Minister of Marine Affairs and Fisheries No. 5 of 2014 on the National Marine Conservation Area of the Sawu Sea and Surrounding Waters in East Nusa Tenggara Province].

Moore, S. F. (1973). Law and social change: The semi-autonomous social field as an appropriate subject of study. *Law & Society Review*, *7*(4), 719–746. https://doi.org/10.2307/3052967

Ostrom, E. (2011). Governing the commons: The evolution of institutions for collective action. In C. S. J. E. Alt, D. C. North, Y. Barzel, R. Bates, G. W. Cox, L. Lewin, G. Libecap, & M. D. McCubbins (Eds.), *The SAGE handbook of governance*. Cambridge University Press. https://doi.org/10.4135/9781446200964.n32

Papillon, M., & Rodon, T. (2020). The transformative potential of indigenous-driven approaches to implementing free, prior and informed consent: Lessons from two Canadian cases. *International Journal on Minority and Group Rights*, *27*(2), 314–335. https://doi.org/10.1163/15718115-02702009

Pirie, F. (2023). Beyond pluralism: A descriptive approach to non-state law. *Jurisprudence*, *14*(1), 1–21. https://doi.org/10.1080/20403313.2022.2108608

Reef Resilience Network. (2022). *Designing a robust and resilient marine protected area network in lesser Sunda Ecoregion*. https://reefresilience.org/case-studies/indonesia-mpa-design/?utm_source=chatgpt.com

Singleton, B. E. (2016). Love-iathan, the meat-whale and hidden people: Ordering Faroese pilot whaling. *Journal of Political Ecology*, *23*(1), 26–48. https://doi.org/10.2458/v23i1.20178

Tamanaha, B. Z. (2017). Understanding legal pluralism: Past to present, local to global. In M. Del Mar (Ed.), *Legal theory and the social sciences: Volume II* (pp. 447–483). Routledge. https://doi.org/10.4324/9781315091891-17

Tamanaha, B. Z. (2021). *Legal pluralism explained*. Oxford University Press.

Taum, Y. Y., & Baryadi, I. P. (2024). Exploring the cultural space of the Lamalera fishing community in Lembata Island, Indonesia. *Randwick International of Social Science Journal*, *5*(1), 147–161. https://doi.org/10.47175/rissj.v5i1.898

Taum, Y. Y., Sunarti, S., Rahmawati Syahrul, N., Atisah Nur, M., & Kembaren, E. S. (2024). The death of the youngest Lamafa: Love and the struggle for survival of whale hunters in Lamalera. *Journal of Marine and Island Cultures*, *13*(3), 160–179. https://doi.org/10.21463/jmic.2024.13.3.09

Trialfhianty, T. I., Quinn, C. H., & Beger, M. (2025). Engaging customary law to improve the effectiveness of marine protected areas in Indonesia. *Ocean and Coastal Management*, *261*, 107543. https://doi.org/10.1016/j.ocecoaman.2025.107543

Turner, B., & Wiber, M. G. (2023). Legal pluralism and science and technology studies: Exploring sources of the legal pluriverse. *Science Technology and Human Values*, *48*(3), 457–474. https://doi.org/10.1177/01622439211069659

United Nations. (2007). *United nations declaration on the rights of indigenous peoples*. United Nations General Assembly Resolution 61/295, adopted 13 September 2007.

von Benda-Beckmann, K., & Turner, B. (2018). Legal pluralism, social theory, and the state. *Journal of Legal Pluralism and Unofficial Law*, *50*(3), 255–274. https://doi.org/10.1080/07329113.2018.1532674

von Benda-Beckmannn, F., & von Benda-Beckmannn, K. (2006). The dynamics of change and continuity in plural legal orders. *Journal of Legal Pluralism and Unofficial Law*, *38*(53–54), 1–44. https://doi.org/10.1080/07329113.2006.10756597

Wenzel, G. W. (2009). Canadian Inuit subsistence and ecological instability—if the climate changes, must the Inuit? *Polar Research*, *28*(1), 89–99. https://doi.org/10.3402/polar.v28i1.6103

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