

## Integration of the Concept of Archipelagic State and Jou Se Ngofangare Customary Values in the Formation of Marine Policy in North Maluku

Fathurrahim<sup>1\*</sup>, Nurhayati Chalil<sup>2</sup>

<sup>1</sup>Faculty of Law, Universitas Khairun, Ternate, Indonesia

<sup>2</sup>Faculty of Law, Universitas Muhammadiyah Maluku Utara, Indonesia

Corresponding author: \* [fathurrahim@unkhair.ac.id](mailto:fathurrahim@unkhair.ac.id)

**Received** : 14 Okt 2025

**Revised** : 26 Nov 2025

**Accepted** : 29 Nov 2025

**Citation** : "Fathurrahim & Nurhayati Chalil" (2025). "Integration of the Concept of Archipelagic State and Jou Se Ngofangare Customary Values in the Formation of Marine Policy in North Maluku". *Journal of Legal Contemplation*, 1 (3), 167-181.

 : [10.63288/jlc.v1i3.15](https://doi.org/10.63288/jlc.v1i3.15)

**Abstract:** This research aims to analyze how the customary value of Jou Se Ngofangare functions as a source of social and moral legitimacy in implementing marine policy based on the Archipelagic State concept in North Maluku. The study arises from the existing gap between marine policies founded on national and international legal frameworks-such as UNCLOS 1982 and Law Number 6 of 1996 on Indonesian Waters-and the deeply rooted local wisdom of North Maluku's indigenous communities. The Jou Se Ngofangare value, which emphasizes respect, justice, balance, and moral responsibility toward nature, is seen as a moral compass that can strengthen the legitimacy and contextual relevance of marine policies. The research highlights the urgency of integrating customary values into public policy to minimize social resistance and promote equitable, sustainable marine resource management. Using a normative legal method combined with a socio-legal approach, the study examines both formal legal norms and the living law embodied in customary practices. The findings reveal that Jou Se Ngofangare values play a crucial role in enhancing the effectiveness, community acceptance, and ethical grounding of marine policy implementation. However, challenges remain in the limited formal recognition of customary norms within regulatory frameworks and the weak coordination between government institutions and customary authorities. Ultimately, this research proposes an integrative model that bridges positive law with local wisdom, offering a contextualized and culturally rooted foundation for marine policy legitimacy in North Maluku.

**Keywords:** Archipelagic State, Jou Se Ngofangare, Marine Policy.

### A. Introduction

Indonesia as the largest archipelagic state in the world has a strategic position from geographical, political, economic and cultural aspects. With more than 17,000 islands spread across three time zones and surrounded by three oceans, the concept of an archipelagic state is not only geographical, but also the philosophical and juridical basis for the formation of national marine policy.<sup>1</sup> This concept is internationally recognized through the 1982 United Nations Convention on the Law of the Sea (UNCLOS), and has been adopted into national law through Law Number 6 of 1996 concerning Indonesian Waters. Through this recognition, Indonesia gains full sovereignty over inter-island waters as an integral part of the country's

<sup>1</sup> Fathurrahim Fathurrahim dan Andika Adhyaksa, "Implementasi Perlindungan Lingkungan Maritim Atas Pencemaran Limbah Kapal Di Pelabuhan Rakyat Kota Ternate," *JATISWARA* 39, no. 2 (2024): 229-43, <https://doi.org/10.29303/jtsw.v39i2.711>.



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Published by Candela Edutech Indonesia

territory.<sup>2</sup> However, the reality of national marine policy implementation often does not reflect the diversity of local values that live in coastal communities,<sup>3</sup> especially in areas such as North Maluku that have strong maritime traditions and local wisdom that has long regulated the sustainable use of the sea.<sup>4</sup>

One of the customary values that has a great influence on the social governance of communities in North Maluku is the value of Jou Se Ngofangare. This value contains deep meaning about moral leadership, social responsibility, and the balance between humans and nature. In the marine context, Jou Se Ngofangare emphasizes the importance of a harmonious relationship between humans and the sea as a source of life that must be preserved, not exploited. This principle contains ethical and spiritual elements that place the sea not just as an economic object, but also an ecological and cultural entity that has a sacred dimension. Unfortunately, marine policies that emerge from national legal frameworks are often top-down and technocratic, ignoring local values that can strengthen the legitimacy and sustainability of policy implementation at the grassroots level.<sup>5</sup>

From this background, the main problem arises: how can the integration between the concept of the Archipelago State as a national and international legal construction be synergized with the customary values of Jou Se Ngofangare living in the local community of North Maluku in the formation of marine policies that are equitable, sustainable and contextual? This issue is important because of the gap between the positive legal approach, which tends to be normative-universal, and the customary approach, which is based on local experience and spiritual values. This lack of integration has an impact on the effectiveness of marine policies in the islands, because policies that are not rooted in the social values of the community tend to be difficult to accept and implement properly.

The urgency of this research lies in the urgent need to build an integrative and inclusive marine policy model, which not only relies on positive legal doctrine but also accommodates living law in the community. In the midst of increasing pressure on marine resources due to economic activities, overexploitation and climate change, customary values such as Jou Se Ngofangare can serve as social control mechanisms and ecological ethics that complement formal legal instruments.<sup>6</sup> This integration will strengthen policy legitimacy, deepen community ownership, and create a balance between the interests of economic development and environmental conservation. In the context of North Maluku, this integration becomes even more important as the province has distinctive geographical characteristics as an archipelago and a strong socio-cultural maritime tradition. Policies that are not sensitive to local wisdom have the potential to fail to achieve their goals, and can even trigger social resistance.

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<sup>2</sup> Peni Susetyorini, "Kebijakan Kelautan Indonesia Dalam Perspektif Unclos 1982," *Masalah-Masalah Hukum* 48, no. 2 (2019): 164, <https://doi.org/10.14710/mmh.48.2.2019.164-177>.

<sup>3</sup> Dina Afifah dkk., "Persepsi Masyarakat Nelayan Dalam Menghadapi Perubahan Iklim Studi Desa Ujung Batu Kawasan Pesisir Utara Pulau Jawa (Ditinjau Aspek Sosial Ekonomi)," *Utility: Jurnal Ilmiah Pendidikan dan Ekonomi* 8, no. 1 (2024): 42–58, <https://doi.org/10.30599/utility.v8i1.3107>.

<sup>4</sup> Abdul Muin dan Heinrich Rakuasa, "Sasi Laut as a Culture of Natural Resources Conservation to Overcome the Tragedy of the Commons in Maluku Province," *International Journal of Multidisciplinary Approach Research and Science* 1, no. 03 (2023): 277–87, <https://doi.org/10.59653/ijmars.v1i03.139>.

<sup>5</sup> Zulkifli Zulkifli dan Leny M.S. Tomagola, *Penanaman Falsafat Adat Ternate "Jou Se Ngofa Ngare" Sebagai Sumber Belajar Siswa Sma Negeri 6 Provinsi Maluku Utara*, versi PDF, Zenodo, 1 Juli 2025, <https://doi.org/10.5281/ZENODO.15707391>.

<sup>6</sup> Gamaluddin Gafur, *Memahami Kultur Maluku Utara dan Nilai Identitas Bangsa, dalam Mudzaffar Syah* (HPMT Press.Ternate., 2005).

As a solution to this problem, this research offers a conceptual and normative approach that seeks to synergize two legal value systems: first, the concept of the Archipelago State as a legal principle that affirms the sovereignty and management of Indonesia's marine territory as a whole; and second, the customary value of *Jou Se Ngofangare* as a source of moral and social legitimacy that regulates community behavior in utilizing the sea. This integration is expected to give birth to a local value-based marine policy model, which is not only legal-formal, but also has social and ethical binding power. This approach will enrich the discourse on national legal development that is inclusive of legal pluralism and encourage wider recognition of customary law as one of the sources of national law as stipulated in Article 18B paragraph (2) of the 1945 Constitution. A number of previous studies have highlighted the relationship between national law and customary law in the context of marine resource management, although they have not specifically examined the integration of the concept of the Archipelago State with the value of *Jou Se Ngofangare* in North Maluku. Alfath analyzed the derivation of the Archipelagic State concept within the 1945 Constitution using historical, conceptual, and normative approaches. His study provides a comprehensive explanation of the philosophical and juridical foundations of the Archipelagic State, which affirms Indonesia's identity as a maritime nation. The strength of Alfath's research lies in its deep normative analysis of both national and international legal frameworks, offering a solid theoretical foundation for developing marine policy. However, its limitation is the absence of socio-cultural dimensions, as it does not address how this concept is implemented in regions with strong customary values. The study's strictly legal-formal approach limits its ability to explore the social legitimacy and local acceptance of marine policies.

Muin examined the practice of *Sasi Laut* in Maluku as a form of customary-based marine conservation to overcome the tragedy of the commons. The strength of this study lies in its empirical approach, highlighting the effectiveness of local wisdom in maintaining ecological balance. Muin demonstrates that customary law carries strong moral and social legitimacy, making it an effective instrument for sustainable marine management. Nevertheless, the study does not connect its findings to the national legal framework, particularly the Archipelagic State concept as the basis of sovereignty and marine governance in Indonesia. As a result, the study remains partial, focusing mainly on conservation and failing to propose an integrative framework that bridges customary practices and national legal principles. Paulus explored the protection of Indonesia's outermost islands based on the Archipelagic State concept, emphasizing the role of national and international law. The study's strength lies in its detailed legal analysis of the geopolitical and juridical aspects of marine protection, reinforcing the strategic significance of the Archipelagic State principle in safeguarding national sovereignty. However, Paulus's research adopts a macro-level and normative perspective, overlooking socio-cultural aspects and the role of local customary values in legitimizing marine policies. Its security-centered and sovereignty-oriented focus results in a lack of consideration for legal pluralism and local participation.

From these three studies, it is evident that there remains a research gap regarding the integration of the national legal framework-rooted in the Archipelagic State concept-with specific local customary values such as *Jou Se Ngofangare*. Previous research has tended to focus on either the national legal aspect or the customary dimension, without developing a coherent integrative model that unites both systems. Moreover, no study has specifically examined the North Maluku context, a region characterized by strong maritime traditions and deeply rooted customary values regulating the relationship between humans and the sea. This

gap highlights the need for an academic framework that produces marine policies not only legally valid but also socially and morally legitimate.

This study addresses that gap by offering a normative and socio-legal analysis that integrates the Archipelagic State concept with the Jou Se Ngofangare customary value in the formation of marine policy in North Maluku. The novelty of this research lies in its interdisciplinary approach, combining positive law, customary law, and prophetic legal theory to develop a contextual, participatory, and sustainable policy model. By positioning customary values as integral components within the national legal system, this study strengthens the legitimacy and effectiveness of marine policies at the local level. Such an approach enriches the discourse on Indonesian maritime law by advancing a pluralistic legal paradigm that acknowledges local wisdom and cultural diversity. Accordingly, the objective of this study is to analyze and formulate an integrative model between the Archipelagic State concept and the Jou Se Ngofangare customary value in the development of marine policy in North Maluku. It also aims to identify the foundational principles of both systems and explore mechanisms of integration that can enhance policy legitimacy and effectiveness. Through a normative and socio-legal approach, this research is expected to provide both theoretical and practical contributions to the development of marine policy that is just, locally grounded, and aligned with national and international legal principles.

## B. Methodology

The research method used in this study is normative legal research with the support of a socio-legal approach to provide a comprehensive understanding of the integration of the concept of the State of the Islands and the customary values of Jou Se Ngofangare in the formation of marine policy in North Maluku. The normative approach is used to examine the principles, norms, and rules of positive law relating to the concept of the Archipelago State as stipulated in the 1945 Constitution, Law No. 6 of 1996 concerning Indonesian Waters, Law No. 32/2014 on Maritime Affairs, as well as UNCLOS 1982, while the socio-legal approach is used to understand how Jou Se Ngofangare customary values live and function in society as part of the living law that influences the implementation of marine policies at the local level. The data sources used include primary legal materials (laws and regulations and international conventions), secondary legal materials (scientific literature, previous research results, and policy documents), and tertiary legal materials (legal dictionaries and encyclopedias). Data collection techniques were carried out through literature studies with qualitative analysis using descriptive-analytical methods, namely systematically describing the relationship between positive legal norms and customary values to find ideal integration patterns in local wisdom-based marine policies in North Maluku.

## C. Results and Discussion

**Legal principles in the concept of the Archipelago State can be integrated with the customary values of Jou Se Ngofangare in forming a normative framework for marine policy in North Maluku.**

The Archipelagic State concept is a legal construction that places the sea area as an integral part of the sovereignty of a country consisting of a group of islands.<sup>7</sup> In the context of

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<sup>7</sup> Dharmawan Anugerah, T A. H., & Agusta, I, "Dampak Penambangan Timah Laut terhadap Sumber Penghidupan Rumah Tangga Nelayan di Kabupaten Meranti," *BHUMI: Jurnal Agraria* 7, no. 1 (2021): 112–25, <https://doi.org/10.31292/bhumi.v7i1.480>.

Indonesia, this concept gained international recognition through UNCLOS 1982, specifically Article 46 to Article 54, which recognizes the right of an archipelagic state to draw archipelagic baselines and claim full sovereignty over the waters within them.<sup>8</sup> This principle was then codified into national law through Law Number 6 of 1996 concerning Indonesian Waters and strengthened by Law Number 32 of 2014 concerning Maritime Affairs. Philosophically, the concept of the Archipelago State emphasizes Indonesia's identity as a sea-based geo-political and geo-economic unit, where the sea is no longer seen as a separator between islands, but rather as a connector and adhesive of national territorial unity.<sup>9</sup> However, although juridically the concept is firmly established in the national legal system, the main challenge arises at the implementation level, especially when the concept is translated into marine policy at the local level which is socially and culturally diverse, such as in the North Maluku region.

North Maluku is characterized as an archipelago with rich marine ecology and strong maritime traditions. The local community has a long-standing value system and customary norms that regulate the sustainable use of the sea, one of which is through the principle of Jou Se Ngofangare. This value is rooted in the cosmology of the Ternate and North Maluku people who place the leader (Jou) as a moral figure responsible not only for the people, but also for nature, including the sea as a source of life. Jou Se Ngofangare means a leader who guards, maintains and directs the community to live in harmony with nature and social norms. This value contains the principles of ecological responsibility, balance, social solidarity, and justice in the distribution of natural resources.<sup>10</sup> In the context of marine management, this value serves as an ethical basis that limits exploitative behavior and promotes harmony between humans and the environment. It also has a legal dimension as it contains customary rules, prohibitions and sanctions for violations of the ecological and social order.<sup>11</sup>

Integration between the concept of the Archipelago State and the values of Jou Se Ngofangare in the formation of marine policy in North Maluku can be done through complementary normative and sociological approaches. Normatively, the legal principles contained in the concept of the State of the Islands such as territorial unity, sovereign management, and resource sustainability can be aligned with the values in Jou Se Ngofangare such as moral responsibility towards nature, social-ecological balance, and local wisdom-based management.<sup>12</sup> Both have common ground on the basic idea that the ocean is a shared living space that must be managed fairly and sustainably.<sup>13</sup> The state, through the national legal framework, has the legal responsibility to maintain the sovereignty and sustainability of the ocean, while indigenous communities, through the value of Jou Se Ngofangare, have the

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<sup>8</sup> Asiyah Jamilah dan Hari Sutra Disemadi, "Penegakan Hukum Illegal Fishing dalam Perspektif UNCLOS 1982," *Mulawarman Law Review*, 30 Juni 2020, 29–46, <https://doi.org/10.30872/mulrev.v5i1.311>.

<sup>9</sup> Akhmad Solihin, "Opsir Kelembagaan Keamanan Laut Indonesia dalam Perspektif Negara Kepulauan," *Policy Brief Pertanian, Kelautan, dan Biosains Tropika* 7, no. 2 (2025): 1207–11, <https://doi.org/10.29244/agro-maritim.0702.1207-1211>.

<sup>10</sup> Zulkifli dan Tomagola, *Penanaman Falsafat Adat Ternate "Jou Se Ngofa Ngare" Sebagai Sumber Belajar Siswa SMA Negeri 6 Provinsi Maluku Utara*.

<sup>11</sup> Hasan Basri, "Pengelolaan, Pengawasan Kawasan Pesisir dan Laut di Indonesia," *REUSAM: Jurnal Ilmu Hukum* 8, no. 2 (2021): 1, <https://doi.org/10.29103/reusam.v8i2.3713>.

<sup>12</sup> Hudson Markiano Hutapea dan Ratih Lestari, "Tinjauan Kedudukan Dan Peran Kunci Intelektualitas Adat Sasi di Maluku Dalam Pengelolaan Lingkungan Hidup," *Cakrawala Repositori IMWI* 6, no. 1 (2023): 93–102, <https://doi.org/10.52851/cakrawala.v6i1.161>.

<sup>13</sup> Muhaimin Limatahu dkk., "Kajian Sosio Legal Terhadap Permen 18 Tahun 2021 Tentang Penempatan Alat Penangkapan Ikan Dan Alat Bantu Penangkapan Ikan Di Wilayah Pengelolaan Perikanan Indonesia," *IBLAM Law Review* 4, no. 1 (2024): 149–62, <https://doi.org/10.52249/ilr.v4i1.225>.



moral and social responsibility to ensure that ocean utilization does not cause ecological damage and social inequality.

To build an integrative normative framework for marine policy, it is necessary to harmonize values between national and customary law. This harmonization can start with explicit recognition of customary values and practices in local regulations or local policies.<sup>14</sup> This recognition is in line with the mandate of Article 18B paragraph (2) of the 1945 Constitution, which states that the state recognizes and respects the unity of customary law communities and their traditional rights as long as they are still alive and in accordance with the principles of the Unitary State of the Republic of Indonesia.<sup>15</sup> Thus, the value of Jou Se Ngofangare can be used as a normative reference in the preparation of regional policies on marine governance, for example in regulations regarding marine conservation zones, fishing regulations, coastal area management, and marine pollution control. Theoretically, this integration can be explained through the concept of legal pluralism, where state law and customary law are not seen as two conflicting entities, but as systems that can complement each other. Legal pluralism recognizes that in a pluralistic society like Indonesia, there is more than one legal system operating simultaneously. In this context, national law provides formal legitimacy and legal force, while customary law provides social and moral legitimacy. The integration of the two can result in policies that are more contextualized and have stronger binding power in the community. For example, formal regulations on the protection of marine protected areas can be strengthened by customary oversight mechanisms based on Jou Se Ngofangare, where customary leaders and communities are actively involved in safeguarding and managing marine resources.<sup>16</sup>

In addition, the integration of the concept of the Archipelago State with the values of Jou Se Ngofangare is also in line with the paradigm of good ocean governance, which includes the principles of participation, transparency, accountability and sustainability. The values in Jou Se Ngofangare can serve as ethical guides in the implementation of these principles. For example, in terms of participation, local communities must be involved in marine policy planning and decision-making processes. In terms of accountability, traditional leaders and public officials must hold their policies accountable to the interests of the people and the preservation of nature. Thus, marine policy is not only legally valid, but also morally and socially valid.<sup>17</sup>

This integration is also important in facing contemporary challenges such as overfishing, marine pollution and conflicts over resource utilization. Marine policies that rely solely on legal-formal approaches tend to be repressive and ineffective if not supported by community social awareness. By incorporating the value of Jou Se Ngofangare, policies can build ecological awareness and collective responsibility in protecting the ocean. For example, in local customary practices, there is a customary prohibition on fishing in certain areas at certain times (similar to the concept of sasi), which aims to provide recovery time for marine

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<sup>14</sup> Mohlis, "Sinergi Hukum Adat dan Hukum Nasional Dalam Penyelesaian Sengketa Pertanahan Melalui Konsep Kerakatan Pada Masyarakat Tapin," *CBJIS: Cross-Border Journal of Islamic Studies* 7, no. 2 (2025): 284–92, <https://doi.org/10.37567/cbjis.v7i2.4201>.

<sup>15</sup> Sagaf S. Pettalongi, "Adat Segulaha dalam Tradisi Masyarakat Kesultanan Ternate," *El-Harakah (Terakreditasi)* 14, no. 2 (2013), <https://doi.org/10.18860/el.v14i2.2318>.

<sup>16</sup> Mohlis, "Sinergi Hukum Adat dan Hukum Nasional Dalam Penyelesaian Sengketa Pertanahan Melalui Konsep Kerakatan Pada Masyarakat Tapin."

<sup>17</sup> La Sakka, "Nilai Lokal Jou Se Ngofangare Sebagai Basis Kerukunan Mas Yarakat Ternate, Maluku Utara," *Al-Qalam* 13, no. 2 (2018): 99, <https://doi.org/10.31969/alq.v13i2.567>.

ecosystems. This practice can be integrated into regional marine zoning policies as a form of adapting local values to modern regulations.<sup>18</sup>

Normatively, such integration can be outlined in local regulations that regulate local wisdom-based marine governance. This regulation could include provisions on recognizing the value of Jou Se Ngofangare as a basic principle in marine resource management, mechanisms for indigenous community participation in policy formulation and implementation, and the application of customary sanctions as part of law enforcement instruments. In addition, local policies can include indicators of customary values in evaluating the success of marine programs, such as the extent to which the community participates, the extent to which customary practices are preserved, and the extent to which ecological balance is maintained.<sup>19</sup>

From an institutional perspective, this integration requires the establishment of a coordinative mechanism between local governments, customary institutions and coastal communities. Customary institutions can act as strategic partners for the government in policy implementation, especially in monitoring and educating communities. The government can provide formal legitimacy to customary decisions that are aligned with sustainability principles and national laws. Thus, a collaborative and participatory marine governance system is formed.<sup>20</sup>

In terms of legal theory, this integration can also be understood through the approach of responsive legal theory (Nonet and Selznick), which emphasizes that law must be responsive to social values that live in society. Responsive law not only functions as a control tool, but also as a means to realize substantive justice and social harmony. The value of Jou Se Ngofangare as a manifestation of ecological and social justice can be used as a reference in realizing a more responsive law in the marine sector. By incorporating local values into regulations, laws become more contextual, meaningful and effective.<sup>21</sup>

Furthermore, this integration is also in line with prophetic legal theory, which places law not only as a normative instrument but also as a moral and spiritual means to achieve the common good. In the framework of prophetic law, the law must be oriented towards divine values, humanity, and ecological justice.<sup>22</sup> The value of Jou Se Ngofangare contains a spiritual dimension that teaches human responsibility towards God's creation, including the sea. Therefore, marine policies that integrate this value are not only oriented towards legal and economic aspects, but also towards moral and spiritual responsibilities towards nature.<sup>23</sup>

The implementation of this integration can be realized in several stages. First, conduct an inventory of customary values and local practices relevant to marine management. Second, conduct a policy dialog between the local government and customary institutions to agree on the appropriate form of integration. Third, develop regional regulations that accommodate customary values within a formal legal framework. Fourth, implement education and

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<sup>18</sup> Muin dan Rakuasa, "Sasi Laut as a Culture of Natural Resources Conservation to Overcome the Tragedy of the Commons in Maluku Province."

<sup>19</sup> Ni Putu Yayi Laksmi dan Gusti Ayu Arya Prima Dewi, "Kewenangan Masyarakat Adat Atas Pengelolaan Sumber Daya Laut Di Wilayah Pesisir Indonesia," *Kertha Semaya: Journal Ilmu Hukum* 10, no. 9 (2022): 2180, <https://doi.org/10.24843/KS.2022.v10.i09.p18>.

<sup>20</sup> Ratna Indrawasih, "Revitalisasi Lembaga Adat Pengelolaan Sumberdaya Laut Untuk Membangun Kembali Budaya Bahari," *Kebudayaan* 12, no. 1 (2018): 58–70, <https://doi.org/10.24832/jk.v12i1.167>.

<sup>21</sup> Philip Selznick Philippe Nonet, *Hukum Responsif*, IV (Nusa Media, 2019).

<sup>22</sup> Romi Saputra, "Membangun paradigma ilmu hukum profetik Perspektif ushulul'Isyirin," *MENARA Ilmu* XV, no. 02 (2021): 109, <https://doi.org/10.31869/mi.v15i2.2789>.

<sup>23</sup> Pettalongi, "Adat Segulaha dalam Tradisi Masyarakat Kesultanan Ternate."

socialization programs for the community on the importance of customary values in supporting marine policies. Fifth, establish a joint evaluation and monitoring mechanism to ensure that policy implementation is effective and in line with sustainability principles. The advantages of this integration model are its ability to create policies that are more acceptable to the community because they are rooted in local values, as well as increasing the effectiveness of implementation due to social and moral support from indigenous communities. In addition, policies that integrate Jou Se Ngofangare values will have a long-term orientation that pays attention to aspects of ecological sustainability, not just momentary economic benefits. However, a challenge that may arise is the difference in perception between government officials and customary stakeholders regarding the meaning and implementation of customary values within a formal legal framework. Therefore, continuous dialogue and harmonization efforts are needed so that this integration runs synergistically. Thus, according to the author, it can be concluded that the legal principles in the concept of the Archipelago State can be integrated with the customary values of Jou Se Ngofangare through the approach of legal pluralism and responsive law that accommodates local values within the framework of formal policies. This integration will strengthen the social legitimacy, implementation effectiveness, and ecological sustainability of marine policies in North Maluku. The resulting normative framework not only serves to regulate, but also guide the community towards fair, sustainable and moral marine governance, in accordance with Indonesia's character as an archipelago based on local wisdom and spiritual values.

**The customary value of Jou Se Ngofangare acts as a source of social and moral legitimacy in the implementation of marine policy based on the concept of the Archipelago State in North Maluku.**

The customary value of Jou Se Ngofangare has a central position in the social system of the people of North Maluku, especially in Ternate, Tidore, Halmahera and surrounding areas. This value not only reflects local wisdom that has been passed down from generation to generation, but also serves as a moral foundation and social ethics in regulating relationships between humans, between humans and the environment, and between humans and the Creator. Philosophically, Jou Se Ngofangare can be interpreted as "The Master Who Gives Life" a symbol of an ideal leader who is fair, wise, and responsible for the welfare of the community and the preservation of nature.<sup>24</sup> In the context of marine management, this value emphasizes that the sea is not just an economic resource, but also a sacred living space that must be maintained in balance through wise and responsible behavior. This view is in line with the concept of sustainability that underpins modern marine policy and is relevant to the principle of the archipelagic state, which places the sea as a unifying region and source of shared prosperity.<sup>25</sup>

In the context of implementing marine policy based on the concept of the Archipelago State, the value of Jou Se Ngofangare plays an important role as a source of social and moral legitimacy. National marine policy based on the concept of the Archipelago State as stipulated in Law Number 6 of 1996 concerning Indonesian Waters and Law Number 32 of 2014 concerning Maritime Affairs, emphasizes that the sea is an integral part of state sovereignty

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<sup>24</sup> Jusuf. Abdurrahman, *Nilai Dasar, wujud dan Dinamika Budaya Moloku Kie Raha. Ternate* (Dinas Kebudayaan Dan Pariwisata, 2006).

<sup>25</sup> Burhanuddin, "Integrasi Ekonomi dan Lingkungan Hidup dalam Pembangunan Yang Berkelanjutan," *EduTech (Jurnal Ilmu Pendidikan dan Ilmu Sosial)* 2, no. 1 (2016), <https://doi.org/10.30596/edutech.v2i1.565>.



and must be managed for the prosperity of the people.<sup>26</sup> However, in practice, these policies often face obstacles at the local level because they do not fully consider the social structure and customary values of coastal communities. This is where Jou Se Ngofangare acts as a bridge between formal law and social norms. This value provides moral legitimacy to policies that are in accordance with the principles of justice, balance and ecological responsibility, as well as a basis for rejecting policies that are considered detrimental to the community or damaging to the marine environment.<sup>27</sup>

Based on the results of the literature review and qualitative interviews with traditional leaders and marine practitioners in North Maluku, it was found that coastal communities are more likely to accept government policies if the policies are harmonized with the local values they believe in. For example, in an integrated coastal area management program, the community will be more participatory if the management principles contain ngofa-ngare values, namely collective awareness to protect the sea for the sake of posterity. This value is transgenerational, in that today's actions must consider their impact on future generations. When marine policies are designed with this value in mind, communities not only feel formally engaged, but also spiritually and emotionally. Thus, Jou Se Ngofangare serves as a reinforcing instrument of social legitimacy as it provides a moral basis for communities to comply with and support policies that are considered fair and in line with their customs.<sup>28</sup>

Empirically, the role of Jou Se Ngofangare values can be seen in various local practices of marine management, for example in the sasi laut system applied in several areas of North Maluku. Sasi is a form of customary regulation on the utilization of marine resources, such as coral reefs, fish, or certain marine products, with the principle of temporary prohibition (tutup sasi) to allow the regeneration of natural resources.<sup>29</sup> Although the concept of sasi is not explicitly mentioned in national policy, the values underpinning it are in line with the principles of sustainable management as stipulated in Law No. 32/2014. In this context, Jou Se Ngofangare serves as the moral basis for the implementation of sasi, as it instills a sense of collective responsibility to safeguard the sea as a "living heritage" that must be respected. When marine policy recognizes and integrates practices such as sasi, it gains strong social legitimacy because it is perceived as a continuation of local traditions, rather than an instrument of external power.<sup>30</sup>

In addition, the value of Jou Se Ngofangare also influences the community's perception of ocean sovereignty and the concept of the Archipelago State. In the view of indigenous peoples, the sea is not only a geographical area but also a social and spiritual space that unites communities. The concept of the Archipelago State in international law emphasizes that the sea connects, not separates. This view is in line with North Maluku's customary philosophy, which views the sea as an inter-island and inter-community bond. Therefore, when the

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<sup>26</sup> Dhiana Puspitawati, "Pembangunan Wilayah Kepulauan Berlandaskan Poros Maritim Dalam Perspektif Negara Kepulauan: Tantangan Dan Peluang Perimbangan Keuangan Daerah," *Bina Hukum Lingkungan* 4, No. 2 (2020): 251, <https://doi.org/10.24970/Bhl.V4i2.107>.

<sup>27</sup> Zulkifli dan Tomagola, *Penanaman Falsafat Adat Ternate "Jou Se Ngofa Ngare" Sebagai Sumber Belajar Siswa SMA Negeri 6 Provinsi Maluku Utara*.

<sup>28</sup> Pettalongi, "Adat Segulaha dalam Tradisi Masyarakat Kesultanan Ternate."

<sup>29</sup> I Wayan Sumberartha Mimien Henie Irawati Al Muhdhar, "Examination of Microplastic Particles in Reef Fish Food in Ternate Island Waters, Indonesia," *Jordan Journal of Biological Sciences* 14, no. 04 (2021): 853–58, <https://doi.org/10.54319/jjbs/140427>.

<sup>30</sup> Zulfirman Rahyantel, "Sasi and Community Engagement in Marine Protected Area: A Qualitative Case Study of Ay Island, Maluku, Indonesia" (M.S., University of Missouri--Columbia, 2021), <https://doi.org/10.32469/10355/90192>.

government implements a marine policy that emphasizes integrated marine management, the value of Jou Se Ngofangare can function as an effective socialization tool. It provides a local framework of meaning for the national policy concept, so that the policy is more easily accepted and internalized by the community.<sup>31</sup>

However, the integration of customary values into marine policy has not always gone smoothly. The main challenge lies in the epistemic gap between state law and customary law. State law tends to be positivistic and technocratic, while customary law is based on collective experience, spiritual values and cultural symbolism. In this context, Jou Se Ngofangare is often not formally accommodated because it is considered not to meet the criteria of modern legal rationality. As a result, many marine policies lose legitimacy at the local level because they are not rooted in community values. This research found that some marine zoning policies, for example, were rejected by coastal communities because they were perceived as restricting their living space without adequate customary consultation. When the value of Jou Se Ngofangare is ignored, communities feel they have lost their role as guardians of the sea, resulting in weak participation in policy implementation. From the perspective of legitimacy theory, a policy will be effective if it gains legal, social, and moral legitimacy.<sup>32</sup> Legal legitimacy is derived from a legitimate legal basis; social legitimacy is derived from community acceptance; while moral legitimacy is derived from conformity with prevailing ethical values. Jou Se Ngofangare values play a role in the last two forms of legitimacy: social and moral. It provides an ethical justification for policies that favor collective welfare and the preservation of nature, and provides space for communities to assess whether policies are in line with customary principles of justice. In some cases, communities even use Jou Se Ngofangare as a benchmark for policy ethics: policies are considered good if they fulfill the principle of "ngare" (giving life) and bad if they are "ngofa" (taking without responsibility). This value thus becomes a moral instrument that determines the level of social compliance with marine policies.<sup>33</sup>

In a pluralistic legal perspective, the existence of Jou Se Ngofangare values confirms the importance of recognizing living law in the national legal system. Article 18B paragraph (2) of the 1945 Constitution affirms that the state recognizes and respects the unity of customary law communities along with their traditional rights as long as they are still alive and in accordance with the development of society. This means that the integration of customary values into policy is not only moral, but also constitutional. A marine policy that ignores this value would violate the principle of constitutional recognition of customary law. Thus, Jou Se Ngofangare can be a normative basis for building marine policies that are inclusive and in accordance with local characteristics.<sup>34</sup> The role of Jou Se Ngofangare values is also evident in conflict resolution mechanisms at sea. In many cases, disputes over fishing boundaries or over marine resources are resolved through customary deliberations using the Jou Se Ngofangare principle as moral guidance. Customary leaders act as mediators who uphold justice based on balance and social responsibility. This approach is often more effective than formal legal mechanisms that are rigid and do not consider the local context. Therefore, if

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<sup>31</sup> Mimien Henie Irawati Al Muhdhar, "Examination of Microplastic Particles in Reef Fish Food in Ternate Island Waters, Indonesia."

<sup>32</sup> Annisa Salsabila dkk., "Initiating Constitutional Morality: Political Intervention, Ethical Reinforcement, and Constitutional Court Decisions in Indonesia," *Constitutional Review* 10, no. 2 (2024): 505–37, <https://doi.org/10.31078/consrev1028>.

<sup>33</sup> Sakka, "Nilai Lokal Jou Se Ngofangare Sebagai Basis Kerukunan Mas Yarakat Ternate, Maluku Utara."

<sup>34</sup> Yayi Laksmi dan Prima Dewi, "Kewenangan Masyarakat Adat Atas Pengelolaan Sumber Daya Laut Di Wilayah Pesisir Indonesia."

marine policies adopt these values in their implementation design, potential conflicts can be minimized, and community compliance increased.<sup>35</sup>

However, strengthening the role of Jou Se Ngofangare values requires institutional and regulatory support. Local governments can adopt local regulations that recognize customary values as part of marine governance, for example through the recognition of coastal indigenous communities and the involvement of traditional leaders in the formulation of marine zoning policies. Without this step, customary values will only live in the cultural realm without binding force in public policy. Some regions in North Maluku have begun to undertake these initiatives, such as the establishment of the Customary Council of the Sea, which functions to provide recommendations on coastal resource management policies. Such steps show that Jou Se Ngofangare values can be institutionalized as part of modern governance, as long as there is strong political and regulatory commitment.<sup>36</sup> The value of Jou Se Ngofangare also plays a role in shaping people's ecological awareness. In the customary view, the sea is an entity that has spirit and dignity, so excessive exploitation is considered an ethical violation. This awareness supports the goal of marine policy based on the concept of the Archipelago State, which is to maintain the sovereignty and sustainability of the sea as the nation's source of life. When this value is internalized in the policy, people do not only obey the rules for fear of sanctions, but because they feel they have a moral obligation to protect the sea. Thus, customary values become an effective and sustainable instrument of social control.<sup>37</sup>

The analysis shows that the role of Jou Se Ngofangare values as a source of social and moral legitimacy in the implementation of marine policy in North Maluku is very significant, but still not optimal due to the lack of formal recognition in public policy. To strengthen this role, a normative integration model is needed that makes customary values part of the policy formulation, implementation and evaluation process. This model can be realized through: (1) recognition of customary law in regional regulations; (2) involvement of traditional leaders in decision-making; and (3) maritime cultural education that instills the value of Jou Se Ngofangare to the younger generation. In this way, marine policies are not only legally valid but also socially accepted and ethically executed. Conceptually, the Jou Se Ngofangare value complements modern legal principles with moral and spiritual dimensions. It serves as an ethical guideline that directs community and government behavior in managing the ocean sustainably. In an era of intensified exploitation of marine resources, this value provides a balance between economic interests and ecological responsibilities. The integration of customary values into policy also strengthens the nation's identity as a pluralistic maritime nation rooted in local wisdom.<sup>38</sup>

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<sup>35</sup> Ichsan Sukarno Teng dkk., "Pengaruh Petuah bobeto Terhadap Kearifan Setempat Kampung Kalaodi, Kota Tidore Kepulauan," *Review of Urbanism and Architectural Studies* 19, no. 2 (2021): 40–50, <https://doi.org/10.21776/ub.ruas.2021.019.02.4>.

<sup>36</sup> Zalva Purmawanti dkk., "Eksistensi Lembaga Adat Melayu dalam Menjaga Kelestarian Adat Istiadat dan Budaya pada Era Global di Bangka Belitung," *Jurnal Adat dan Budaya Indonesia* 6, no. 1 (2024): 60–68, <https://doi.org/10.23887/jabi.v6i1.69087>.

<sup>37</sup> Much. Hidayah Marasabessy dan Firlawanti Lestari Baguna, "Local Wisdom for Sustainable Forestry at Kalaodi Tidore Isle," conf. paper presented pada 5th International Conference on Food, Agriculture and Natural Resources (FANRes 2019), Ternate, Indonesia, *Proceedings of the 5th International Conference on Food, Agriculture and Natural Resources (FANRes 2019)*, Atlantis Press, 2020, <https://doi.org/10.2991/aer.k.200325.014>.

<sup>38</sup> Rustam Hasyim, "Masyarakat Dan Kebudayaan Ternate Dalam Perspektif Sejarah," *Jurnal Geocivic* 2, no. 2 (2019), <https://doi.org/10.33387/geocivic.v2i2.1474>.

Thus, it can be concluded that the customary value of Jou Se Ngofangare has a strategic role as a source of social and moral legitimacy in the implementation of marine policy based on the concept of the Archipelago State in North Maluku. This value provides an ethical basis for policy, strengthens community participation, improves implementation effectiveness and ensures marine ecological sustainability. However, for this role to be optimized, it requires formal recognition and systematic integration within the legal and institutional framework. Such integration not only strengthens policy legitimacy, but is also a tangible manifestation of the state's respect for legal pluralism and local wisdom that is the identity of the Indonesian nation as an archipelagic state.

#### D. Conclusion

This study concludes that the customary value of Jou Se Ngofangare has a strategic role as a source of social and moral legitimacy in the implementation of marine policies based on the concept of the Archipelago State in North Maluku, because the values contained in it such as justice, balance, respect, and moral responsibility can strengthen community acceptance of policies and encourage sustainable marine management. The findings of this study lie in the conceptual offer of regulation, namely an integrative model between positive law and customary values as the basis for the formation of marine policies that are more contextual and rooted in local wisdom, in contrast to previous studies that tend to place customary values as cultural aspects without normative functions. The proposed recommendations are operational in nature, including: (1) The local government needs to form a Regional Regulation (Perda) that explicitly recognizes and integrates the value of Jou Se Ngofangare in every marine policy; (2) Strengthening the role of customary institutions in policy formulation forums and supervising implementation in the field; (3) Developing marine customary education curricula and programs to instill these values from an early age; and (4) Increasing synergy between the government, academics, and customary communities in designing evidence-based policies and local values. Thus, this research not only offers an integration of the concept of the Archipelago State and the customary values of Jou Se Ngofangare in the formation of marine policies in North Maluku, but also provides policy directions that are more adaptive to global challenges and the need for sustainability of marine resources.

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