

# Customary Law and Social Capital Synergy for Paya Nie Peatland Governance

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**General background:** Peatland ecosystems such as Paya Nie hold strategic ecological and socio-economic value as carbon sinks, biodiversity habitats, and community livelihood sources. **Specific background:** Despite these roles, Paya Nie faces degradation due to land conversion and weak enforcement of conservation norms. Customary law historically guided sustainable use, but its oral nature and reliance on social sanctions reduce its effectiveness in the face of modernization. **Knowledge gap:** Previous studies have emphasized either the ecological or legal dimensions but have rarely examined the synergy of customary law, social capital, and national law in peatland governance. **Aims:** This study employs a normative juridical method enriched with a socio-legal perspective to analyze the position of customary law in Indonesia's legal system and its integration with social capital for ecological sustainability. **Results:** Findings confirm that while customary law is constitutionally recognized, its enforcement is limited, requiring revitalization through codification, strengthened social capital, and harmonization with national regulations. **Novelty:** The study introduces a governance model that integrates customary law, social capital, and state law as a synergistic framework for sustainable peatland management. **Implications:** This model contributes theoretically to socio-legal discourse and practically to policymaking, offering adaptive, participatory, and sustainable solutions for environmental conservation and community empowerment.

## Highlights:

- Integration of customary law, social capital, and national law strengthens peatland management.
- Codification and formal recognition enhance the enforcement of customary norms.
- Synergy model offers adaptive and participatory governance for sustainability.

**Keywords:** Customary Law, Social Capital, Peatland Conservation, Environmental Governance, Sustainability

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## Introduction

Paya Nie, located in Kutablang Subdistrict, Bireuen Regency, is one of the largest peat swamp ecosystems in the region, covering an area of approximately 300.15 hectares spread across seven villages [1]. This ecosystem holds significant ecological value as it serves as a habitat for various types of flora and fauna, while also playing a vital role as a water catchment area and source of

agricultural irrigation. In the context of global climate change, peatlands are also recognized as natural carbon sinks that play a significant role in mitigating global warming. As such, the existence of Paya Nie is not only relevant to the local community but also holds strategic value in environmental conservation efforts at both national and international levels [2].

Beyond its ecological functions, Paya Nie holds high socio-economic value for the surrounding community. This ecosystem provides water resources, fish, and non-timber forest products that form the backbone of livelihoods for fishermen and farmers [3]. In Blang Mee Village, for example, purun plants that grow naturally on peatlands are processed into various handicraft products that support the community's micro-enterprises. This demonstrates that peatland ecosystems are not only important from an environmental perspective but are also intertwined with the sustainability of the local economy [4]. Thus, the degradation of peatland ecosystems has the potential to disrupt food security, reduce community income, and weaken the economic foundation of rural households [5].

However, the ecological condition of Paya Nie faces serious pressure. Legally, this area is classified as an Area for Other Uses (APL), which allows for the exploitation of natural resources [6]. This legal status has opened the door to land conversion, which in practice has led to a reduction in the area's size from 304.19 hectares, as recorded in Qanun No. 7 of 2013, to 300.15 hectares. This decrease is largely due to land conversion into rice fields, mixed coconut plantations, and oil palm plantations [7]. If left unchecked, this conversion trend will exacerbate the degradation of peatland ecological functions, increase the risk of flooding, and reduce the environmental carrying capacity for the surrounding community [8].

On the other hand, the indigenous community in Paya Nie has long had a customary legal system that regulates the use of natural resources. These customary norms incorporate conservation principles, such as prohibitions on destructive fishing methods, including the use of electric shocks or poison. Customary rules also emphasize the importance of maintaining a balance in the utilization of forest products to avoid ecosystem damage. This demonstrates that customary law has long served as a tool for environmentally sustainable management rooted in local wisdom, passed down through generations [9].

However, the reality on the ground shows a low level of compliance with customary law. In 2019, for example, violations of customary rules related to fishing methods led to a scarcity of freshwater fish, which had a direct impact on food availability and community income [10]. This case proves that although customary norms are still socially respected, their implementation is often hampered by short-term economic needs. In other words, the conservation values contained in customary law are often overridden by the logic of more immediate economic gain.

One of the fundamental weaknesses of customary law is its non-codified nature and its reliance on social sanctions. Customary sanctions typically take the form of reprimands, ostracism, or shame, so their effectiveness is highly dependent on the level of solidarity and sense of community among the people [11]. When faced with actors with significant economic interests, such as plantation landowners, such social sanctions tend to be ineffective. As a result, practices of natural resource exploitation often continue despite conflicting with existing customary norms [12].

Recognizing these weaknesses, traditional leaders and communities from seven villages around Paya Nie have been pushing for the establishment of written customary laws since 2022 [13]. This effort is an important step to strengthen the binding force of customary law while providing legal certainty for all residents. Written customary law is expected to clarify sanction mechanisms, strengthen the legitimacy of traditional leaders in enforcing rules, and prevent the misuse of natural resources. However, this process is not easy due to limitations in the capacity of customary institutions and a lack of regulatory support from the local government [14].

This phenomenon also shows the existence of legal dualism in the field. On the one hand,

customary law seeks to uphold the principles of conservation and sustainability; on the other hand, formal law often opens up legal space for certain economic activities that have the potential to damage peat ecosystems [15]. This normative tension creates a gap in environmental governance, often marginalizing the role of customary law in the face of state regulations. However, if both legal systems can be integrated synergistically, local wisdom-based environmental management will have stronger legal force and formal legitimacy [16].

In this context, there is an urgent need to integrate customary law into the national legal framework [17]. This integration aims to strengthen the position of customary law, bridge normative gaps, and optimize the social capital of communities in protecting peatland ecosystems. Social capital in the form of solidarity, trust, and social networks among citizens are important factors that can complement the weaknesses of customary law in enforcing regulations. Thus, the synergy between customary law, social capital, and national law will produce a more participatory and adaptive model of environmental governance that meets the needs of the community [18].

Based on the above description, this study aims to analyze the position of customary law in the national legal system, examine its relevance to the principle of sustainability, and formulate an adaptive normative framework for the management of the Paya Nie peat ecosystem. A normative legal approach enriched with a socio-legal perspective is used to understand the interaction between customary values, social capital, and national legal instruments. Thus, this study is expected to provide theoretical contributions to the study of customary law as well as practical recommendations for policymakers in their efforts toward sustainable environmental conservation.

## Methods

This study uses a qualitative method with a normative juridical approach enriched by a socio-legal perspective [19]. The choice of qualitative methods is based on the need for the research to deeply understand the relationship between customary law, social capital, and the national legal system in the context of peatland ecosystem management. This method allows researchers to comprehensively explore non-codified customary values and interpret the social dynamics underlying the implementation of customary law. The normative legal approach was chosen because this research departs from a formal legal framework, particularly in examining the position of customary law in the national legal system, which has been constitutionally and legislatively recognized as part of the Indonesian legal system.

In order to enrich normative legal analysis, this study adopts a socio-legal perspective. The socio-legal approach is considered important because customary law cannot be understood solely as text or rules, but also as social practices that exist within society. This perspective positions customary law as living law whose validity is influenced by social, economic, and cultural dynamics. Thus, the socio-legal approach helps explain how customary norms are applied, interpreted, or even violated in everyday practice, as well as how social capital such as trust, solidarity, and social networks can strengthen the effectiveness of customary law in Paya Nie.

Data collection in this study was conducted through document analysis, given that the study focused more on secondary data [20]. Data sources included legal documents, legislation, academic literature, government policy reports, scientific journals, books, and previous studies related to customary law, social capital, and peatland ecosystem conservation [21]. Data was obtained from various libraries, digital archives, and relevant online databases. The main focus of the data collection process was directed at identifying customary law norms applicable in Paya Nie, mapping natural resource management practices based on local wisdom, and tracking formal regulations governing the existence of customary law within the national legal framework.

Data analysis was conducted in three main stages, namely data reduction, thematic grouping, and in-depth interpretation [22]. The data reduction stage involved the selection and simplification of information to maintain focus on the research issue [23]. Next, the reduced data is grouped into

main themes, namely the position of customary law in the national legal system, the role of customary norms in maintaining ecosystem sustainability, and the synergy between customary law and social capital. In the interpretation stage, researchers use the social capital theory perspective to examine how solidarity, social networks, and community trust can influence the effectiveness of customary law in conservation. This approach provides a richer understanding of the interaction between customary law and national law, while revealing the social factors that support or hinder the application of customary norms.

To ensure validity, this study uses source triangulation techniques. The information obtained is compared with various official documents and literature to ensure consistency, reliability, and relevance of the data. Triangulation also serves to avoid interpretive bias that may arise due to the limitations of secondary data. The results of the analysis are expected to not only answer the two main research questions—namely, the legal status of customary law within the national legal system and its contribution to the sustainability of the Paya Nie ecosystem—but also provide academic contributions to the development of customary law studies and practical recommendations for policymakers. Thus, this methodology is not only descriptive-analytical but also solution-oriented in offering a more adaptive and sustainable normative framework.

## **Results and Discussion**

### **A. The Position of Customary Law in the National Legal System**

The results of the study confirm that customary law has a fundamental position within the framework of Indonesia's national legal system, particularly in relation to the management of natural resources and the environment [24]. Constitutionally, Article 18B paragraph (2) of the 1945 Constitution states that

*"Negara mengakui dan menghormatikesatuan-kesatuanmasyarakathukumadatbesertahak-haktradisionalnyasepanjangmasihhidup dan sesuaidenganperkembanganmasyarakat dan prinsip Negara Kesatuan Republik Indonesia."* This provision provides a strong legal basis that customary law is not merely a social norm that exists in society, but rather an integral part of the national legal system that has received formal recognition. With this constitutional foundation, customary law is viewed as part of the living law that fills the gaps in the national legal system and even serves as a reference in formulating environmental policies based on local wisdom [25].

Recognition of customary law in the environmental sector is reinforced through various sectoral laws that prioritize local wisdom as an instrument for natural resource management. Law No. 32 of 2009 on Environmental Protection and Management (UU PPLH) explicitly positions local wisdom as an important instrument in environmental conservation and protection. Article 63(1) of the PPLH even grants local governments the authority to develop and preserve local wisdom values in environmental policies, meaning that customary law can be accommodated in the design of local policies. As such, customary law can function as a normative instrument that strengthens ecosystem governance, including the highly degraded Paya Nie peatland [26].

In addition to the PPLH Law, other regulations also open up space for the participation of customary law communities. Law No. 41 of 1999 on Forestry recognizes the role of indigenous peoples in the utilization and protection of forests, provided that the existence of these customary law communities is legally established through regional regulations or qanun [27]. Similarly, Law No. 6 of 2014 on Villages provides legitimacy for customary villages to regulate the interests of the community based on their ancestral rights, including in the management of natural resources. The existence of these regulations shows that, normatively, the state has provided sufficient space for customary law to be integrated into the national legal system, so that local-based conservation principles can run in tandem with the sustainable development agenda [28].

However, in practice, the implementation of customary law faces serious challenges [29]. First, customary law is generally non-codified and passed down orally, so its enforcement heavily depends

on community compliance. In Paya Nie, for example, despite customary rules prohibiting destructive fishing methods such as electric shocks or poison, these practices continue to this day. This highlights the gap between customary norms and community behavior, where the conservation values embedded in customary rules are often overlooked in favor of short-term economic gains.

Second, customary law is not always accompanied by strict formal sanctions, but rather relies more on social or moral sanctions. In the context of a homogeneous society with strong social ties, social sanctions are often effective. However, in increasingly complex and open societies, the effectiveness of social sanctions becomes limited, especially when violations are committed by parties with significant economic interests, such as landowners or those involved in peat conversion for oil palm plantations. The absence of formal sanctions causes customary law to lose its coercive power, thereby weakening its role in protecting the environment.

Third, there is a tendency for legal dualism to occur. On the one hand, customary law seeks to maintain ecological balance by emphasizing the principle of prohibiting excessive exploitation and controlling destructive activities. On the other hand, formal law often provides legal space for certain economic activities, such as land conversion for plantation or intensive agricultural purposes, which in the long term have the potential to damage peat ecosystems. This normative tension creates an implementation dilemma in the field, where communities often find themselves in an ambiguous position: whether to comply with customary rules that prohibit certain activities or with formal laws that provide legal legitimacy. This situation creates regulatory fragmentation that can reduce the effectiveness of environmental governance.

In addition to these problems, another challenge that needs to be addressed is the weak political support and formal regulations in strengthening the position of customary law. Although the constitution and laws provide recognition, in practice many local governments have not yet adopted customary law into official regulations, such as qanun or regional regulations. In fact, formal recognition through regional policies would provide stronger legitimacy for customary law in carrying out its conservation function. Without regional regulatory support, customary law remains in a marginal position, relying entirely on social compliance from communities that are increasingly eroded by market logic and modernization.

Thus, the position of customary law in the national legal system is both strategic and problematic. On the one hand, it has constitutional legitimacy and normative support from various sectoral laws; however, on the other hand, it faces serious challenges in implementation due to its non-codified nature, weak sanctions, and conflicts with formal law. Therefore, synergistic efforts are needed to revitalize customary law so that it can function effectively in the management of the Paya Nie peat ecosystem. This synergy can be achieved by codifying customary rules into written law, strengthening formal legitimacy through regional qanun, and integrating customary law into national conservation policies. In this way, customary law can truly become a legal instrument that is not only recognized but also effective in maintaining ecosystem sustainability.

## **B. The Role of Customary Law in Maintaining the Ecological Sustainability of Paya Nie**

The customary laws that apply in the Paya Nie area basically contain principles that are highly relevant to the concept of sustainable development, namely maintaining ecological balance while supporting the livelihoods of the community. The customary rules that have been passed down from generation to generation emphasize the importance of order in the use of natural resources, such as prohibiting excessive exploitation of forest products, regulating water use to prevent drought or flooding, and prohibiting the use of destructive fishing methods such as electric shocks, poison, or fish bombs [30]. This principle aligns with the universal value of sustainability, where the use of resources must consider the rights of future generations to continue benefiting from ecological resources. Thus, customary law has effectively functioned as a conservation mechanism rooted in local wisdom and socially accepted by the community [31].



However, the reality on the ground shows a gap between customary norms and community practices. Not all parties comply with these rules, especially when short-term economic incentives are more dominant. Communities facing economic constraints tend to prioritize meeting immediate needs over considering long-term ecological impacts [32]. This can be seen in the case of the use of electric shocks to catch fish quickly and massively, which resulted in a drastic decline in the freshwater fish population in Paya Nie in 2019. Similarly, the conversion of peatlands into rice fields and oil palm plantations, while economically beneficial in the short term, actually damages the vital carrying capacity of peatland ecosystems. This phenomenon demonstrates that the existence of customary norms without collective awareness often fails to curb the pace of resource exploitation [33].

This condition emphasizes that the role of customary law cannot be separated from the social context that surrounds it. Customary norms will be effective if they are supported by a high level of solidarity and respect for customary authority among the community. This is where social capital plays an important role in strengthening the binding power of customary law. Social capital in the form of trust, social networks, and values of solidarity functions as a social glue that supports the enforcement of customary rules. With mutual trust among citizens and a sense of collective responsibility, violations of customary norms are not only seen as individual violations, but also as a threat to social harmony and shared sustainability [34].

In the context of Paya Nie, traditional leaders and local leaders play a central role in maintaining the relevance of customary law. Through village deliberation forums, traditional leaders can reaffirm the traditional values that govern the use of natural resources, while adapting them to contemporary challenges. The revitalization of customary rules in written form is also a strategic step to strengthen the binding power of customary norms, as written rules are easier to disseminate, understand, and enforce consistently. In addition, training and environmental education based on local wisdom can help raise awareness among the younger generation about the importance of preserving peatland ecosystems. In this way, customary law is not only seen as a cultural heritage, but also as a relevant socio-legal instrument for modern conservation.

Furthermore, customary law norms in Paya Nie have the potential to bridge the interests of the community's ecology and economy. Customary rules that prohibit excessive exploitation while encouraging the wise use of resources are actually a local form of the principle of sustainable development. With the strengthening of social capital, customary norms can serve as the basis for environmentally friendly economic development, such as sustainable traditional fisheries management or the development of micro-enterprises based on non-timber forest products like purun crafts. Thus, customary law is not only an instrument of control but also the foundation for the emergence of ecology-based economic innovation.

### **C. Synergy between Customary Law, Social Capital, and National Law**

The novelty of this research lies in the idea of synergy between customary law, social capital, and national law as a more comprehensive and sustainable framework for environmental governance. Until now, much research has focused on the relationship between customary law and state law, where customary law is often positioned as a complement to formal law or merely a symbol of recognition of local wisdom [35]. This study seeks to go beyond that perspective by adding the dimension of social capital as an important variable that can strengthen the effectiveness of customary norms at the community level. By incorporating social capital as a component of analysis, customary law is no longer seen merely as traditional rules that are local in nature, but rather as a relevant, adaptive, and transformative legal instrument in addressing modern ecological challenges, including peatland degradation due to conversion and overexploitation [36].

This synergy is realized through three strategic steps. First, revitalizing customary law by drafting written rules agreed upon by the seven villages surrounding Paya Nie. This effort is important considering that oral customary law is often weak in terms of binding power and enforcement. With

written rules, customary norms can be more adaptive to the socio-economic dynamics of the community, while providing greater legal certainty for all parties. This revitalization also opens up space for community participation in formulating joint rules, thereby increasing the sense of belonging and collective compliance with the agreed norms [37].

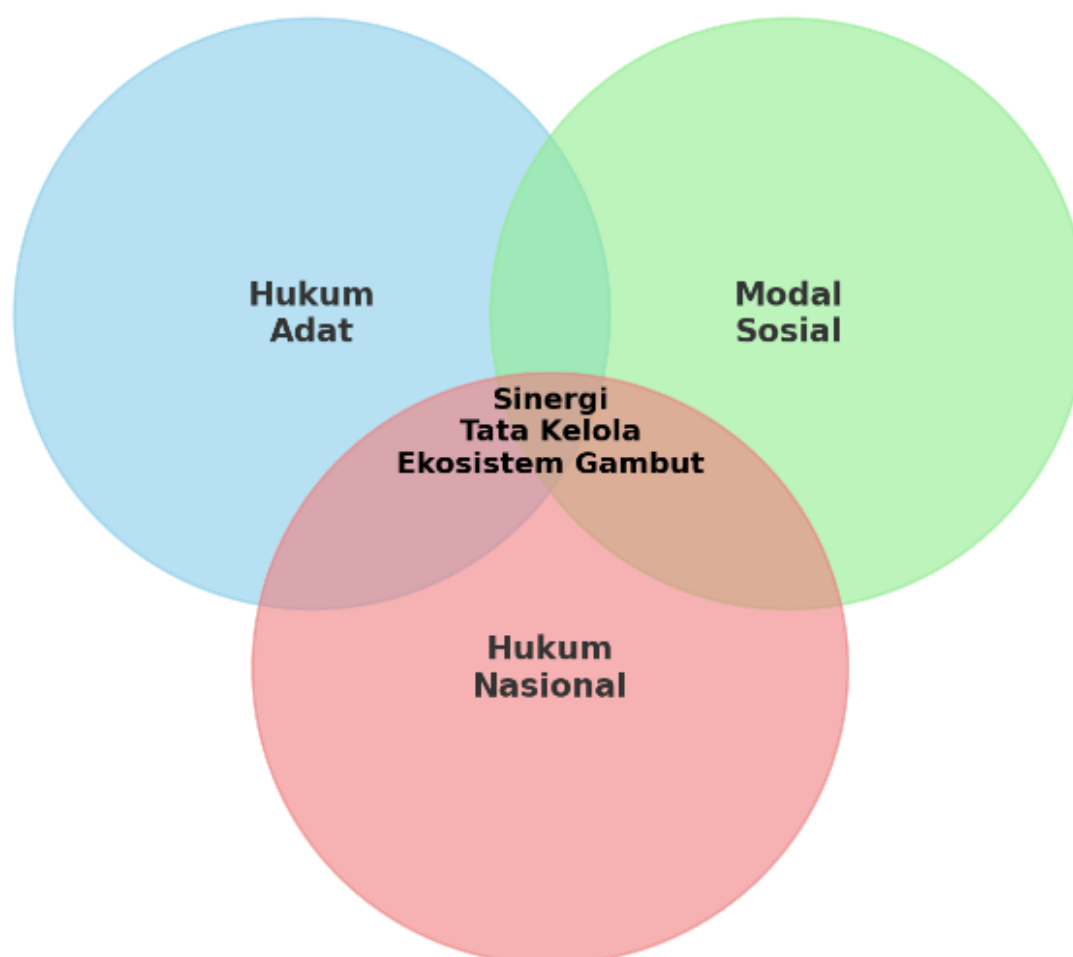
Second, strengthening social capital, which includes solidarity, trust, and collaborative networks between citizens, customary leaders, village governments, and non-governmental organizations. Social capital acts as social energy that complements the limitations of customary law in enforcing sanctions. For example, with a network of cooperation between citizens, social control mechanisms can run more effectively through joint supervision and collective action against violations of customary rules. Mutual trust also strengthens the legitimacy of customary law, as the community believes that customary rules are enforced for the common good, not merely for the authority of certain leaders. In this framework, social capital serves as the foundation supporting the sustainability of customary law implementation amid the pressures of modernization and the market economy [38].

Third, harmonization of customary law with national law. This harmonization can be achieved through formal recognition of customary law in the form of Bireuen Regency qanun or regional policies based on the environment. This formal recognition is important because it provides legal legitimacy to the existence of customary law, while strengthening its binding force in the national legal sphere. With harmonization, customary law no longer stands alone as a social norm, but becomes part of a formal legal system with greater coercive power. Additionally, harmonization prevents normative conflicts between customary law and formal law, allowing both to complement each other in maintaining the sustainability of peatland ecosystems [39].

The synergy between customary law, social capital, and national law has broad implications for the management of the Paya Nie peatland ecosystem. First, this synergy strengthens ecological protection by ensuring the existence of relevant local regulations, supported by community solidarity, and formally recognized by the state. Second, this synergy maintains food security through sustainable natural resource management practices, such as traditional fisheries management and the use of purun plants without damaging the peat ecosystem. Third, this synergy promotes ecology-based local economic empowerment, where communities are not only objects of conservation but also active subjects who manage and benefit economically from ecosystem conservation. Fourth, this synergy contributes to the preservation of peat swamp biodiversity, which has high ecological value and indirectly supports national and global agendas for climate change mitigation [40].

Thus, this idea of synergy not only presents a new conceptual framework in the study of customary law and environmental conservation, but also offers a more adaptive and participatory governance model. The integration of customary law, social capital, and national law can be a contextual solution to the problems of peatland ecosystem management, particularly in Paya Nie, and can be replicated in other regions of Indonesia with similar characteristics. This synergy underscores that ecological sustainability can only be achieved through collaboration between traditional values, community social power, and state legal legitimacy within a comprehensive environmental governance framework.

## Model Sinergi Hukum Adat, Modal Sosial, dan Hukum Nasional



**Figure 1.** *Model of Synergy between Customary Law, Social Capital, and National Law*

This conceptual model illustrates the integration of *customary law*, *social capital*, and *national law* as a comprehensive framework for sustainable peatland governance. Customary law represents local wisdom and traditional ecological norms, while social capital provides community-based mechanisms of trust, solidarity, and collective action to strengthen compliance. National law, on the other hand, ensures formal recognition and legal legitimacy for environmental conservation. The intersection of these three dimensions creates a synergistic space that supports effective environmental governance, strengthens food security, promotes eco-based local economic empowerment, and contributes to biodiversity conservation in Paya Nie peatland.

## Conclusions

This study highlights that customary law holds a strategic and normative position in the governance



of natural resources, particularly in managing the Paya Nie peatland ecosystem, as its principles—such as prohibitions against overexploitation, rules on resource utilization, and restrictions on destructive practices—are aligned with the concept of sustainable development. However, its implementation is often challenged by weak enforcement mechanisms and the economic pressures faced by local communities. The findings further demonstrate that social capital, in the form of solidarity, trust, and collaborative networks, plays a pivotal role in reinforcing the effectiveness of customary law, while national legal recognition provides the necessary legitimacy and formal authority to ensure broader compliance. The scientific contribution of this research lies in proposing a synergistic governance model that integrates customary law, social capital, and national law, offering a more adaptive, participatory, and sustainable framework for environmental conservation. This synergy not only strengthens legal legitimacy but also contributes to biodiversity protection, food security, and community-based economic empowerment, thereby enriching the discourse on socio-legal studies and environmental governance. Future research is recommended to conduct empirical fieldwork and comparative studies across different regions in Indonesia to test the applicability of this model, assess its long-term effectiveness, and explore its potential to be scaled up into national policy frameworks for sustainable natural resource management.

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