

Overview of Forestry (TC 2020-22)

Laws related to Forests & Wildlife:

Observations & Reflections

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Larger Contexts and Associations

- Nature and laws of nature
- Human nature and laws of human nature

- **Society and State**
- **Land, Estate & Capital –**

Crucial role since onset of agriculture and accelerated with industrial development

- **Community:**

Local community

Regional and National community

Global community

- ◆ **Biophysical Environment & Ecology**

- Landscapes –Eco-regions: Variety and complexity
- Forests & Wildlife
- *Interfaces – Forests and forestry with Agriculture, Urban & Industrial activities and landscapes*
- Diversity, Biodiversity, Resilience
- Air & Water and Pollution Pathways

- **Evolution of Natural systems**

- **Evolution of Societal systems ...**

- **Ecology.... of societal systems:**
Politics, Laws, Policy, Governance...

Ecology of law

Rule of Law

- Socially constructed order for *human well being and sustenance*
- Foundational institution of governance and administration and their coherent working – *More so in democracies*

- Harmonizes and balances the human individual existence with collectives – *society, community, capital, state.*
- Evolving with human civilization, growing *in complexity* with time
- New subjects, principles, complexities added in laws and legal systems

*Phases of Incoherence, Unruliness and Chaos amongst Laws, Policies and Governance
and their Operations:*

Forest Deptt. seizing Trains of Ministry of Railways for *accidental death of elephant or rhinoceros*

UNIVERSAL PRINCIPLES

Just Laws and
Policies.....

Accountability

Rule of
Law

Open
Government

Accessible
Justice.....

Some Questions, Issues to ponder over...

- Forests and wildlife laws – *How Just in Framework and Operation? State, Capital and Community*
- Relevance and effectiveness of the provisions of these laws? – Have these undergone reforms with the changed circumstances?
- Laws and legal systems always lag in adaptation with changing social setting and context;
- Adaptation, reform or transformation of the legal system of governance and administration of forests and forestry , and environmental protection

Too much time lag in some areas? Better late than never !

Certain provisions in Indian Forest Act 1927 have:

- Outlived their utility;
- Incompatible to Changed Realities / Disconnected to Contemporary Needs;

Some Questions, Issues to ponder over...

- Issues of reform in Forest Acts (1927, 1980) and Wildlife Act (1972) :
 - Decriminalization in some categories of offences
 - “Forest produce” definition – *monopolistic and exclusionary coverage still required ?*
 - Incorporation of eco-system values and functions in legal framework
 - Inclusion of river, aquatic and wetland eco-systems, habitats and landscapes in Wildlife (Protection) Act 1972
 - Incorporation of enabling elements related to other later acts:
 - ✧ Biodiversity (Conservation) Act 2002
 - ✧ Pollution and Environment Protection related acts (1986)
- Integration, Convergence and Cohesiveness among laws, rules and legal and enforcement systems – *Daunting task*

Some Questions, Issues to ponder over...

- Operation of laws, rules and legal systems:
 - Deficits and deficiencies
 - Imbalances and Bias in enforcement and implementation –
Non-implementation or delayed implementation of certain sections – Decades of delay in enquiry and settlement of rights etc. – vitiates the law, creates anomalies, social stresses and adverse social reactions, agitations
 - **Mechanical implementation** – Rule orientation vs. objective orientation
 - **Presumptive and safeguarding provisions** unduly weighed in favour of State vis-à-vis local community
 - **State , Capital, Community – Balancing the stakes, influence.....**

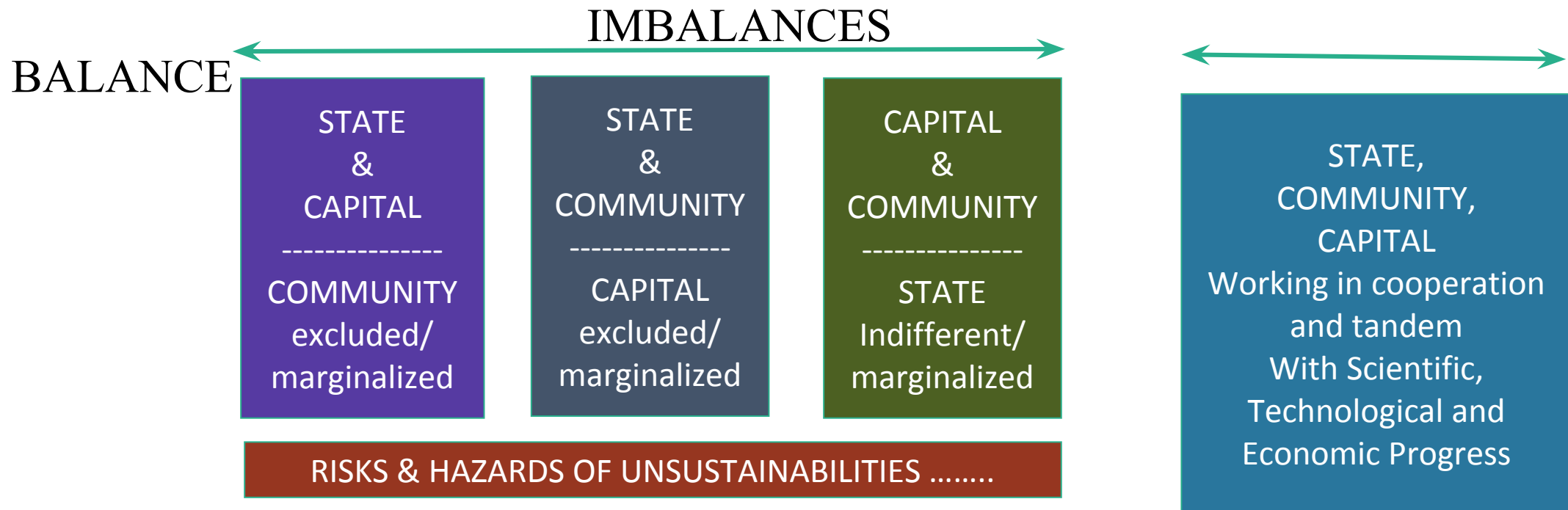
Instances:

- ✧ Why did we *have to have* Sch. Tribes & TFD (Recognition of Forest Rights) Act in 2006, *six decades after independence?*
- ✧ Why should villages within boundary of a sanctuary cannot have *pucca road access* without permission under FC Act 1980 and/or Wildlife Protection Act?

Some Questions, Issues to ponder over...

▪ Operation of laws, rules and legal systems:

- ❖ Have the law and legal system related to *forests and wildlife* been **Unjustly Biased** against and **Oppressive** for the *Weaker Section* of the society?
- ❖ Why did we *have to have* Sch. Tribes & TFD (Recognition of Forest Rights) Act in 2006, *six decades after independence*?



State includes – Legislature, Executive & Judiciary - all three are fallible, biased and imperfect

▪ **Realities of 21st century: Challenge of Adaptation of Legal Framework & Systems**

- ✧ *Dimensions, Intensities and Scales of Environmental Degradation and Climate Change Phenomena – Global Change, Age of Accelerations*
 - ✧ *Dimensions, Intensities and Scales of Impacts on world communities and diversity of vulnerabilities and resilience;*
 - ✧ *Confounding challenges and opportunities of population growth, economic development*
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- ✧ *Emergent Scientific Understanding and Revelations, and Technology enabled Solutions*
 - ✧ *Response of state operators, judiciary, government leaderships, industrial and market corporates – Lagging, inchoate and incoherent changes in Governance, Policies and Laws*
 - ✧ *Actions for Sustainable Environments in accordance with Principles and Practices of Sustainable Development*

Options for solutions – Legal Luminaries, Scientists, Philosophers, Statesmen, System Thinkers, Civil Society....

Challenging roles, functions & opportunities for Forest Officers

- Operate the laws and legal system in contemporary perspective with objectivity and purposefulness
- Perceive the changed realities in the field and report the ground situations with analytic, diagnostic and remedial inputs and suggestions for reforms in the legal framework and operational system of the forest and wildlife governance and administration;
- Contribute to transformative changes in legal framework and operational system with insightful observations from ground level, interfaces with community and other stakeholders and experiences with processes in the field and their outcomes, events of failure and success related to operation of laws and rules

Challenging roles, opportunities and functions2

- Balancing of *humane approach* towards deprived section of private individuals and local community and harsh disposition of laws on forests and wildlife;
- Contribution to reforms in operation of laws – dialogical approach with Courts on one hand and legal representatives – State Counsels on the other – *Differential approach*
- Find and occupy appropriate operational roles and functions in *emergent arenas* of *administration, governance, law and policy in subject areas with implications for Environmental and Ecological dimensions many a time beyond forests and wildlife* by pro-active disposition, initiatives and innovative approaches.

