

# Crafting the Next Generation of Forest Regulations



# Outline

- Conceptual Framework of Policy and regulations
- Limitations of forest regulations and their causes
- Examples
- Reflections, Questions

# Role of the State in Relation to Forest Areas

State should:

1. Establish/maintain legal and regulatory framework that:
  1. Recognizes rights (human, property, civil)
  2. Clarifies responsibilities (of state, of citizens/communities)
  3. Ensures justice/fairness, mediation of interests and action
  4. Empowers/enables individual/community action in pursuit of interests – civil, entrepreneurial, political
- Provide (or ensure provision of) priority public goods:
  - E.g. education, research, extension, firefighting, pest control, inventory
  - (this requires investment)
- Ensure sound rules regarding international trade and investment:
  - e.g. protect interests and ensure level playing field for domestic producers
- \* In many countries it is assumed that a 4<sup>th</sup> role is to own and manage lands (e.g. national level public goods such as parks). This is not a requirement or responsibility – rather a relic of unreformed feudal or colonial history. There's no inherent logic to state ownership of land.)

# Role of the Communities in Relation to Forest Areas

Communities should:

1. Be good citizens:

1. Pursue their rights and interests
2. Respect their responsibilities
3. Actively participate in governance of community and nation

1. Engaging the state to carry out its responsibilities:

1. Forming, reforming legal/regulatory framework
2. Providing public goods
3. Establishing international norms

# Ineffective regulations

- Forest sector: direct management by government and heavy regulation of other actors
  - Management and harvesting, transportation, industrial processing, trade...
- With disappointing results:
  - Deforestation and degradation
  - Illegal operations
  - Inequitable distribution of rights and rewards
  - Inconsistent application (disproportionately hurting the vulnerable)
  - Inability to distinguish between “criminal” and “criminalized”

# Examples of Regulatory Errors

- Overly stringent, cumbersome harvest regulations (diminishing incentive or ability to manage forests)
- Overlapping regulations, confusion
- Logging bans, log export bans
- Not accounting for potential detrimental effects of regulations in related sectors, on different scales of industry, on different segments of the population (e.g. gender), on other countries)

# Rethinking regulations: Emerging “lessons”

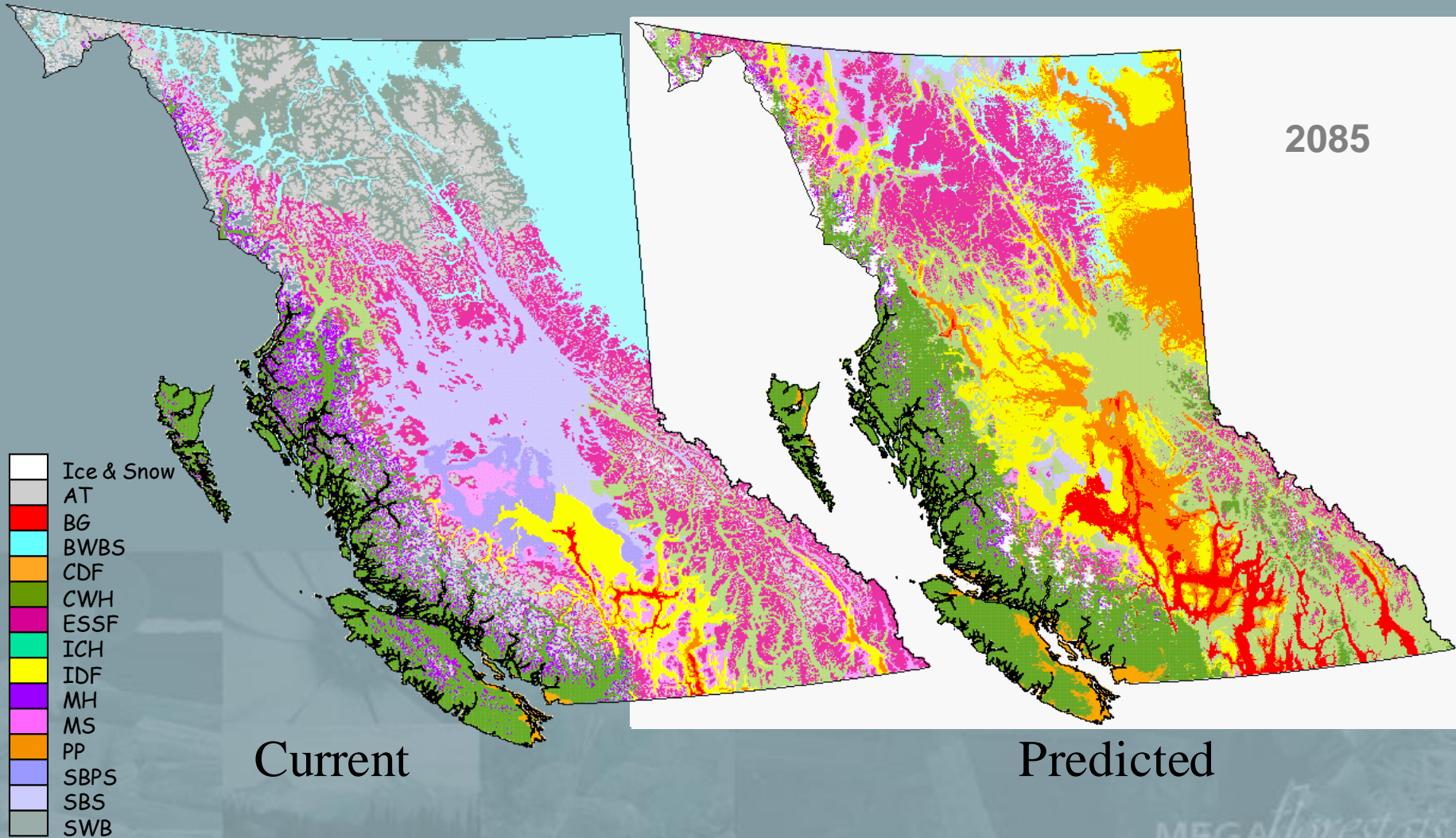
Four **linked** aspects:

- ***Context*** of regulations – how to optimize leverage of interests and incentives of other stakeholders
- ***Content*** of regulations – how to make most judicious (and limited) use of state power,
- ***Process*** of regulatory reform – how to develop in a way that builds understanding and support
- ***Continuous monitoring, evaluation, adaptation*** – how to ensure social “learning”, mechanisms for adaptation

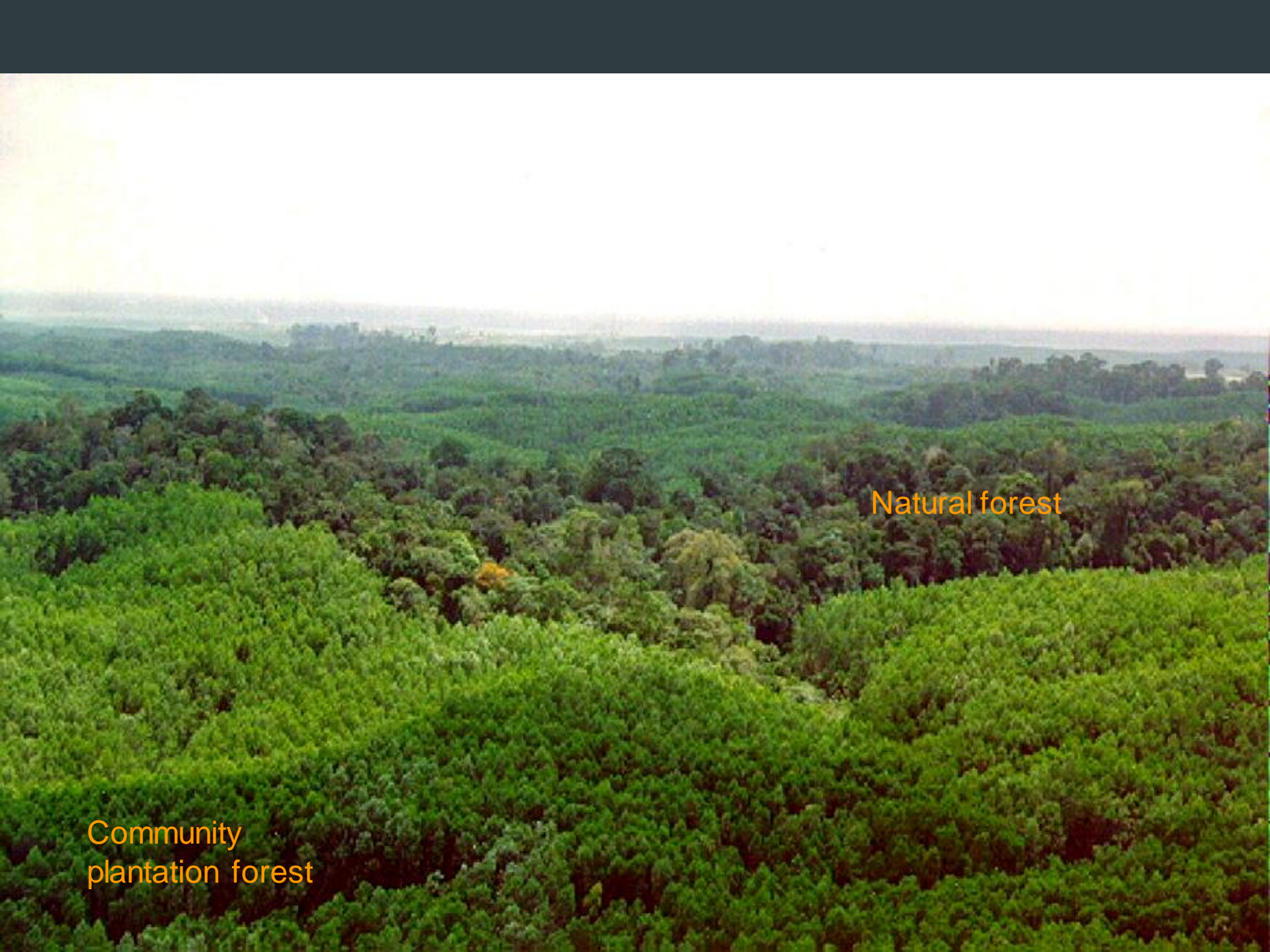
*“Rethinking” : from government “enforcement” to  
“system for encouraging improved practice and  
compliance”*

# How Ecosystems May Change

Hamann and Wang. 2006. Ecology 87: 2773-286)







Natural forest

Community  
plantation forest

An aerial photograph of a lush green forest. A prominent, winding river or stream flows through the center of the forest. Three callout boxes with light blue backgrounds and white borders are overlaid on the image. The first box, labeled 'Protected areas', points to a section of the forest on the left. The second box, labeled 'Native species', points to a section of the forest in the middle. The third box, labeled 'Industrial Species', points to a section of the forest on the right. The forest is dense and green, with some taller trees visible in the background.

**Protected  
areas**

**Native  
species**

**Industrial  
Species**

# Small scale is getting bigger

There needs to be a change in the perception of what is the forest economy



# Examples

- Certification
- Independent Monitoring
- Voluntary Codes of Conduct
- Voluntary: Best Management Practices, backed up by regulation



# Helping the small and informal to be “big”

## SMEs and Community-based Forestry activities encouraged in limited areas and in limited models

- Not allowed in the State forests
- Tendency to promote artificial “modern” institutional underpinnings
- Promoted models delinked from agricultural and multiple-use forest reality
- Protected areas expansion encroaching on potential growth areas

## SMEs are in what is considered an “Informal” Sector

- Nonetheless, the main supplier of domestic and regional markets
- Employment extremely high in collection and processing
- Most illegal --”black market” pejorative extended to small urban processors
- Even less recognition of women and their NTFP related enterprises but even less recognition or support
- Domestic/regional trade in NTFPs high in tropical countries: extends to shrubs, insects and other “undervalued” products and services

# Reflections

- Improved regulatory frameworks are needed
- There is no single and simple best regulatory model of general application: possible reforms are shaped by the political, economic and institutional context of countries
- There are new demands requiring new configurations: e.g. transformations in markets, GCC, REDD
- Problem: countries where levels of governance are the lowest are those that less capable to introduce new regulatory frameworks

# (Some) Questions

1. Regulations are slow to catch up with changes in policy (and markets) – how establish flexibility and speed up the process of adaptation?
2. Difficulty in getting regulations right to genuinely promote interests of forest dependent people – how to guide without killing incentive?
3. Vested interests in existing regulations (e.g. financial, urban, environmental groups) etc.– how to overcome these?