

# DESIGNING LEGAL SPACE:

## LAW AS AN ENABLING TOOL IN COMMUNITY-BASED MANAGEMENT

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# OUTLINE

1. Why law matters
2. The substance of law -- the need for greater *security* and *flexibility* of rights
3. The process of law -- making rights real

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# **Community-based Management Needs State Law to:**

- Mediate the relationship between community-based systems and outsiders
- Spell out the limits of state power.
- Provide basic protections against the abuse of local power
- Provide basic guidelines for protection of important environmental interests

# Emerging Legal Responses

- Laws that recognize local ownership over land and/or resources
- Laws that promote co-management regimes
- Decentralization laws

# Needed:

“Legal regimes that allow local community-based institutions to define, preside over and redefine the rules of resource use.” (Lynch 1998)

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**Local people need the right  
to participate meaningfully in  
the management of  
resources  
on which they depend**

# **Needed:**

Secure rights and  
Flexible rights

# Security

- Clarity of rights
- No unilateral termination
- Enforceability
- Exclusivity
- Avenue for appeals and dispute resolution
- Legal personality

# **Flexibility needed in:**

- Setting goals, planning and management
- Recognizing local institutions
- Identifying the local managers and defining their jurisdiction

# Planning powers are:

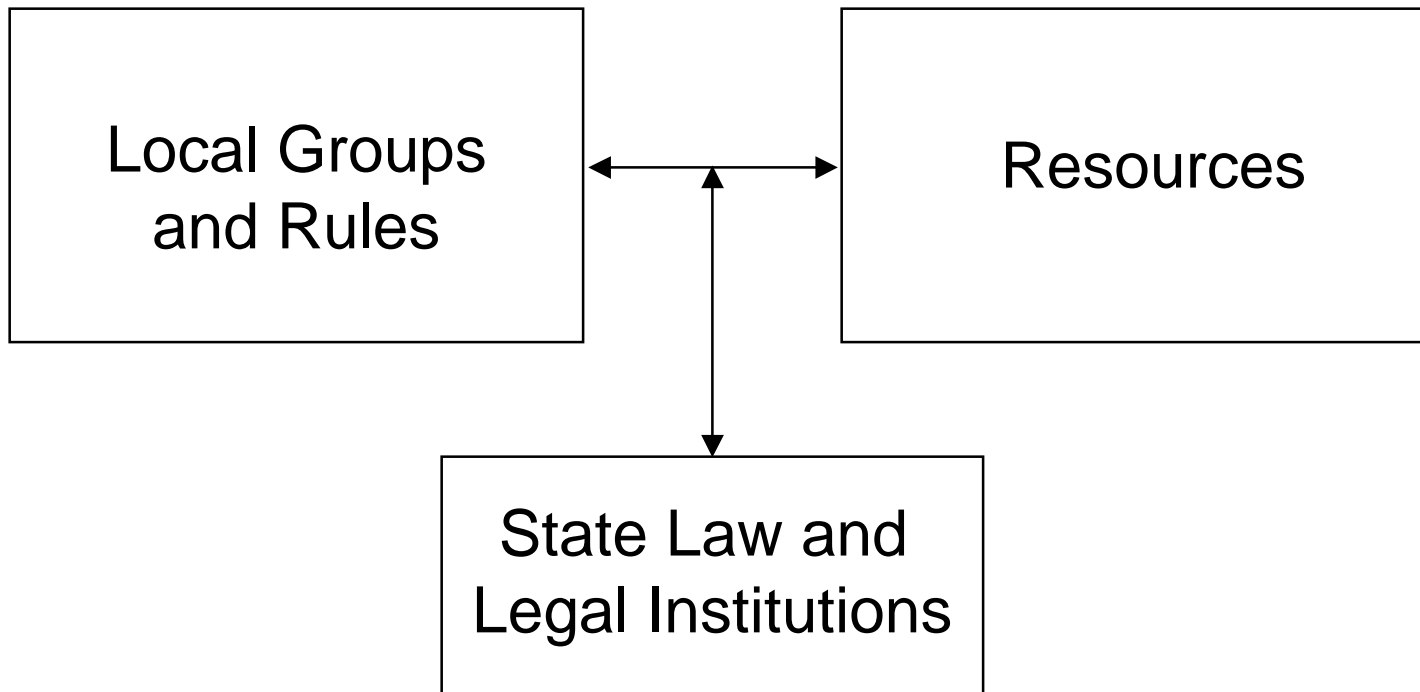
- Often left in the hands of government
- Often reflect objectives “fixed” by sectoral approaches and legislation

# Local Institutions are:

- Often forced by law into shapes and procedures that are alien
- ***But***, members may sometimes want intervention by state law to clarify powers and individual rights

# Defining the Group and its Area of Control

- Standardized local bodies vs.
- Groups formed around particular functions



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# Elements of Process

- Participation of stakeholders and consultation at all stages
- De-mystification of the language of law
- Communication
- Capacity-building
- Realistic expectations: the limits of law reform

Law reform in support of community-based management should not be seen as a one-shot affair. It is an ongoing process that needs constantly to respond and adjust to feedback from the field