



Realizing Forest Rights in Vietnam:

Addressing Issues in Community Forest Management

V I E T N A M

Edited by
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Preface

In Vietnam, forests have been under state stewardship for a long time. Degradation of forest resources under state management together with the high costs of forest protection has led to increased involvement of local people in forest management. Since the early 1990s, the Government of Vietnam (GOV) has been promoting the allocation of forest rights to local people as the foundation for development of community forest management (CFM). The initiative, known as Forest Land Allocation (FLA), has been undertaken in various parts of the country, with mixed results. This raises an important question: how can forestland allocation be improved so that community forestry can both support local livelihoods and provide environmental protection?

With funding from the British Economic and Social Research Council (ESRC), the School of International Development at the University of East Anglia (UEA) and RECOFTC – The Center for People and Forests, a small initiative on “Property Reforms and Forest Rights in Vietnam” was undertaken. The initiative aims to identify key issues influencing the success or failure of community forestry in various parts of the country and to discuss implications for policies on forest management and rural development.

The document at hand is a product of a group of carefully selected researchers, policy experts, and practitioners seeking to share their experiences and viewpoints based on previous or on-going work. It is by no means a comprehensive discussion of all the issues related to community forest management in Vietnam. Nevertheless, it is hoped that the issues brought up by the authors in the document will shed light on some of the important aspects of community forest management in Vietnam and can serve as the starting point for further development of community forest management in the new context in Vietnam.

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List of Abbreviations

5MHRP	Five Million Hectare Reforestation Program
CADT	Certificate of Ancestral Domain Title
CFM	Community Forest Management
CSDM	Center for Sustainable Development of Mountainous Areas
CSO	Civil Society Organization
DOF	Department of Forestry (before 2010)
FCPF	Forest Carbon Partnership Facility
FLA	Forest Land Allocation
FPDF	Forest Protection and Development Fund
FPIC	Free, Prior and Informed Consent
GIZ	German International Cooperation Agency
GoV	Government of Vietnam
HHG	Groups of households
IPRA	Indigenous Peoples Rights Act
KfW	German Bank for Reconstruction
MARD	Ministry of Agriculture and Rural Development
NCIP	National Commission on Indigenous Peoples
PAMB	Protected Area Management Boards
PFES	Payments for Forest Environmental Services
REDD	Reducing Emissions from Deforestation and Forest Degradation
SFE	State Forest Enterprise
TCNP	Tram Chim National Park
UNESCO	United Nations Educational, Scientific and Cultural Organization
VND	Vietnamese Dong
VNFOREST	Vietnam Administration of Forestry

Introduction

There has been growing recognition over the last few decades that community forest management (CFM) can make significant contributions to sustainable forest management, poverty alleviation, local democracy, and the preservation of local cultures. These are key priorities for the Government of Vietnam (GoV), as indicated by the considerable budgets made available for forest conservation and poverty alleviation as well as legislative actions in support of grassroots democracy and cultural recognition.

The government has created strong foundations for the development of CFM through Forest Land Allocation (FLA). By the end of 2009, local communities held tenure rights to 26% of the total forest area in the country, either as individual households, household groups, or in village collectives. The transfer of tenure rights is a critical cornerstone in the promotion of community forest management because they are a necessary precondition for local communities to manage and benefit from forests sustainably, participate in democratic decision-making regarding forests, and develop their own customary practices of forest management.

Nonetheless, experience from Vietnam and elsewhere shows that tenure rights are not enough. The transfer of tenure leads to desirable environmental, economic, political, and cultural outcomes only if local communities can realize the rights given to them in legislation. For example, tenure transfers have little meaning if forest regulations and logging bans severely restrict the concrete rights accorded to people. Transfers also possess little value if they emphasize protection obligations over rights to forest management. In addition, legal tenure rights often do not translate into real rights on the ground if local authorities and communities do not have the capacity to implement legal stipulations. In many situations, tenure rights do not bring economic benefits to local people who lack access to markets and forest ecosystem services.



This document presents selected analyses of key issues in CFM in Vietnam. It brings together contributions by leading analysts and thinkers and is organized in three main parts:

- Part 1 discusses issues related to the transfer of forest rights to local people through FLA. It starts with an overview of FLA policy and its outcomes by Nguyen Quang Tan and Thomas Sikor. A case study by Nguyen Dinh Tien, Tran Duc Vien and Nguyen Thanh Lam alerts readers to the fact that too much emphasis on conservation objectives may endanger the food security of the local people. Luong Thi Truong and Orlando Genotiva call for the recognition of customary land rights of ethnic people to avoid potential conflicts and to promote economic, political, and cultural development among ethnic minorities.
- Part 2 relates CFM to two influential policy frameworks new to the forestry sector in Vietnam. Juergen Hess and To Thi Thu Huong introduce readers to Payment for Forest Environmental Services (PFES), a new financing mechanism for forest management in Vietnam, and argue for the critical importance of CFM in making PFES work. Nguyen Quang Tan and Thomas Sikor argue that Reducing Emission from Deforestation and Forest Degradation (REDD) in Vietnam should employ a community-based approach to involve local people.
- Part 3 turns to the question of how CFM can move forward in Vietnam. Nguyen Quang Tan and Thomas Sikor start with an analysis of the rationale for community forest management in Vietnam. Using examples from various parts of Vietnam, they identify five reasons it is important to entrust local people to manage a larger share of the country's forests. Lai Tung Quan and Suriya Vij present a case study that illustrates the importance of involving the local community in protected area management. Do Anh Tuan and co-authors argue that Vietnam's legal framework should recognize the diversity of governance structure for CFM, including household groups in addition to entire village communities. Finally, a short essay by Thomas Sikor and Nguyen Quang Tan concludes with concrete suggestions on how to move CFM forward in Vietnam.



Key Recommendations

The Government of Vietnam needs to enable local communities to manage upland forests in more effective ways. This involves reinvigorated efforts to expand FLA to communities, strengthen forest tenure rights, and facilitate the generation of tangible benefits from forests. To achieve these goals, five steps are particularly critical:

1. Facilitate negotiations over forest management planning and benefit-sharing between local communities and authorities, within national safeguards.
2. Enable voluntary, performance-based contracts for the provision of forest ecosystem services and carbon capture under the upcoming national PFES and REDD+ programs.
3. Develop and apply responsive procedures for the expansion of FLA to local communities.
4. Introduce procedures for the negotiation of shared forest governance between communities and local authorities.
5. Provide an enabling legal and financial framework for the operation of Civil Society Organizations (CSOs) in the forest sector.

These strategic interventions, if implemented, would enable community forestry to make crucial contributions to Vietnam's development. Local communities managing forests would not only help to improve forest management, but also derive greater benefits from forests, helping to lift them out of poverty. Their enhanced participation in forest governance would match the goals of strengthening grassroots democracy, recognizing distinct cultural traditions, and complying with the government's commitments to international agreements and norms.



Rights to Forests

From Allocation to Real Rights

PART 1

1. Forest Land Allocation: An Overview of Policy Framework and Outcomes

Nguyen Quang Tan and Thomas Sikor

In the early 1990s, the Government of Vietnam (GoV) conceived Forest Land Allocation (FLA) in parallel with land allocation schemes in agriculture as a mechanism to transfer forest management to local communities. FLA was, and remains, the major vehicle for devolution of forest management in Vietnam. This section reviews the policy framework and implementation of FLA so far, outlining initial successes and limitations over time and exploring why FLA was beneficial in the midlands but not in the uplands. It identifies four critical factors underpinning FLA success in the midlands, particularly the rapid expansion of tree plantations, then contrasts these factors against the conditions characterizing much of the uplands.

Introduction

Centralized state management was the dominant policy approach to forest management in Vietnam until the late 1980s. The Ministry of Forestry and later the Ministry of Agriculture and Rural Development (MARD) and their line agencies at the provincial and lower levels were in charge of overall forest management, supervising a rapidly growing number of state forest enterprises (SFEs) responsible for silvicultural management. By the end of the 1980s, there were 413 SFEs in the country, managing 6.3 million ha of forestland (MARD 2001).

Beginning in the early 1990s, the GoV sought to involve both state and non-state stakeholders in forest management (Box 1). The Forest Protection and Development Law, passed in August 1991, provided a legal framework for allocating forest resources to a diversity of stakeholders (including organizations and individuals) for management, protection, and commercialization. In July 1993, the GoV passed a new Land Law, granting land users long-term, renewable land-use titles called "Red Books." In addition, the Law officially gave the titleholder five rights: rights to exchange, transfer, inherit, mortgage, and lease their land. These two laws laid down the basic framework for the emergence of novel forest management arrangements.

Forestland allocation became a critical pillar of the GoV's forest policy over the following years. The GoV issued Decree 02/CP in 1994, providing a framework for transferring forest tenure rights to local organizations, households, and individuals similar to the allocation process well underway in agriculture. A year later, though, the GoV partially retracted from the focus on allocation by promulgating Decree 01/CP that focused instead on contracting land for agriculture, forestry, and aquaculture. The latter significantly restricted the tenure rights granted to land users. Contracts are of a shorter duration, cover limited use rights only, and often emphasize obligations (such as forest protection) over rights (such as use).

In the early 2000s, the GoV moved to formally recognize forest management under household groups and whole communities in reaction to the initiatives undertaken by a few provincial governments. The revised Land Law passed in 2003 provided legal recognition to community land tenure by sanctioning land allocation to village collectives. The new Forest Protection and Development Law passed in December 2004 endorsed community forest tenure and defined the conditions under which villages could receive forestland collectively.

In this chapter, we seek to identify key lessons derived from nearly two decades of implementing FLA. In particular, we are asking why FLA produced favorable outcomes in the midlands but failed to do so in the uplands. This leads to differentiating conditions necessitating the design of different forest policies for the midlands and uplands.

Box 1: Major milestones in the legal framework on forestland allocation

- Aug. 1991: Forest Protection and Development Law passed by the 8th National Assembly, marking an effort to involve local people and different economic sectors in forest protection and development
- Jul. 1993: Land Law passed by the 9th National Assembly, stipulating the rights of title holders to lease, exchange, inherit, mortgage, and transfer land-use titles
- Jan. 1994: Government Decree 02/CP on allocation of forestland to local organizations, households and individuals
- Jan. 1995: Government Decree 01/CP on contracting of land for agriculture, forestry, and aquaculture purposes
- Nov. 1999: Government Decree 163/1999/ND-CP on leasing of land for forestry purposes
- Nov. 2003: Land Law passed by the 11th National Assembly, recognizing the legal status of communities in land tenure
- Dec. 2004: Forest Protection and Development Law passed by the 11th National Assembly, recognizing common property as a legal forest management arrangement

Outcomes of forestland allocation

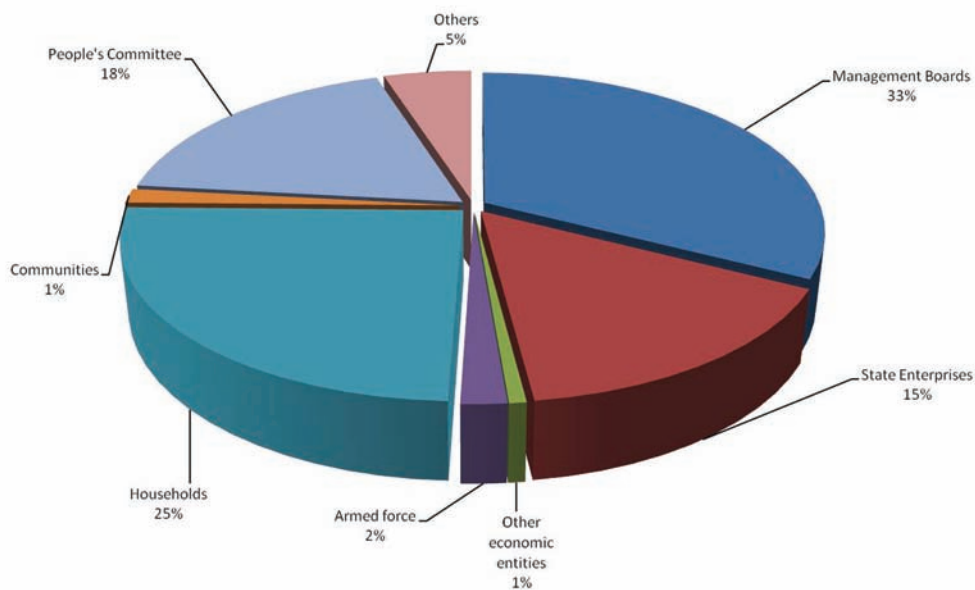
Even though the government has implemented FLA for nearly two decades, it has yet to evaluate the program comprehensively¹. However, various studies on FLA conducted by Vietnamese and foreign researchers provide relatively firm insights about the outcomes. The studies suggest that FLA has created a solid foundation for sustainable and equitable forest management in Vietnam, but also point out various aspects that require further attention by policy makers.

FLA's most important success has perhaps been the increased involvement of diverse stakeholders in forest management. It has been an effective vehicle for a shift away from exclusive state forestry towards more people-centered forestry, devolving forest management rights to various actors. Whereas SFEs were the dominant actors in forest management up to the 1980s, today there are eight forest tenure groups: 1) individual households; 2) communities; 3) communal people's committees, 4) management boards for protection forests; 5) management boards for special-use forests; 6) state-owned forest companies; 7) joint-venture companies; and 8) the armed forces.

Today, local people manage a significant area of forest. As indicated in Figure 1, over one-fourth of the forestland is under management of local people (households and village collectives). This is the result of a massive titling effort, under which over 1.1 million Red Books had been handed to forestland users by 2007 (Dinh and Dang 2008).

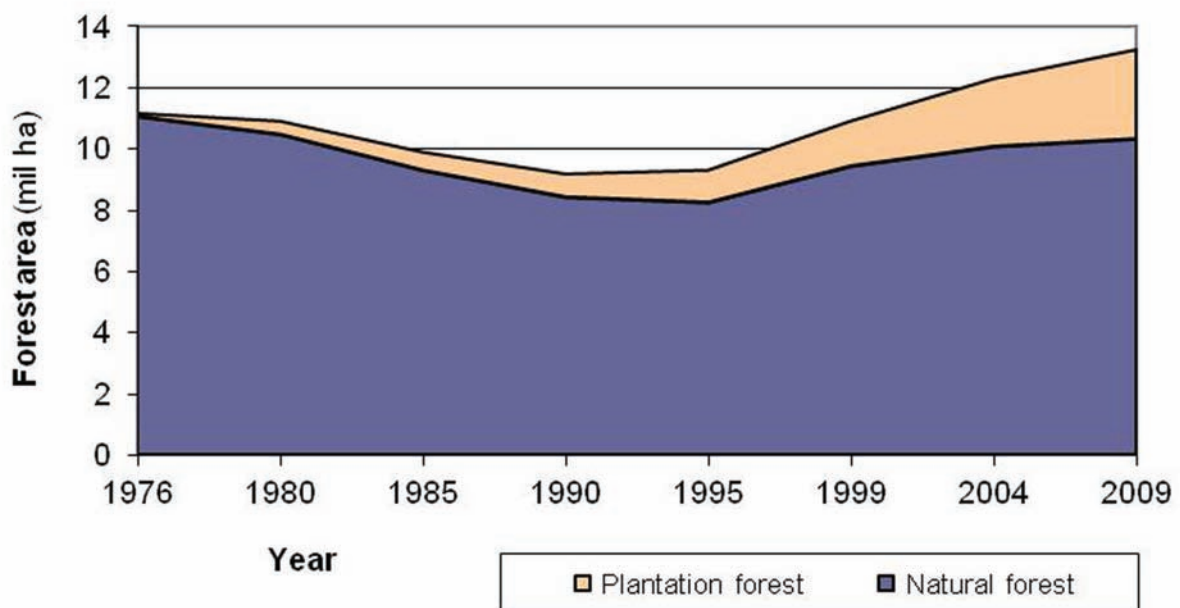
¹ MARD plans a nationwide assessment of FLA in 2011 and 2012.

Figure 1: Forestland tenure by stakeholder groups in 2009



As a consequence, Vietnam's forest cover has experienced a dramatic turn-around from decline to growth (Figure 2). Under state forestry, forest cover had fallen drastically. Between 1976 and 1990, the country lost more than 2.6 million ha of natural forest, representing a loss of around 190,000 ha annually—or 24% of the natural forest area in 14 years. Once FLA was introduced, forest cover expanded rapidly from 11 million ha in 1990 to over 13 million ha in 2009. This corresponded to an increase of over 10% in 19 years.

Figure 2: Changes in Forest Area from 1976-2009



Nevertheless, FLA also experienced significant shortcomings. In many locations, local studies report a general lack of understanding by local communities on their rights and responsibilities regarding forests (e.g. Nguyen *et al.* 2008). In most instances, local people are only aware of their right to inherit the forest title, but not the other rights vested in the forestland certificates. Similarly, they know that it is their responsibility to protect the allocated forest, but have little understanding of the responsibilities of others, particularly state actors, to support them in realizing their endowed rights.

However, FLA has not been introduced in many other locations (Box 2). Instead, local People’s Committees, forest companies, and Protected Area Management Boards (PAMBs) have contracted forestland out to local people. This form of ‘non-allocation’ was connected with the implementation of the national program on re-greening of barren hills (known as Program 327) in the 1990s. In the 2000s, it was associated with the Five Million Hectare Reforestation Program (5MHRP, also known as Program 661). Under 5MHRP, for example, project developers, usually a SFE or another state organization, would contract around 2.2 million ha of forest annually to local communities for protection and management. Under this arrangement, local communities were not real managers of forest but only ‘paid laborers’ for SFE, and received a payment of 50,000 VND (100,000 VND later on) per hectare of forest per year.

Box 2: The allocation/contract muddle

In Hoa Binh province, forestland was allocated in the mid-1990s. In 1998, the provincial government formalized the previous allocation by issuing Red Books to forest recipients. The titles, however, did not serve as proof of full legal rights, as they stated that such forestland was only contracted to land holders. Consequently, these forest Red Books did not grant their holders the full tenure rights specified in the Land Law and thus did not carry much value for the local people.

Source: Nguyen *et al.* 2008

The priority given to forest contracts instead of FLA has reflected wider concerns over the exercise of state control of forests. These concerns also find their reflection in the emphasis given to preserving a strong role for the state in overseeing the use of forest allocated to local people. Legal permission from appropriate state authorities is still required for timber logging and use of forestland for agriculture. This creates a situation where local people feel they are protecting the forest for the state, even after FLA. (Nguyen *et al.* 2008; Sunderlin and Huynh 2005).

The continuing dominant role of state organizations also becomes clear when one looks at the nature of forestland allocated to local communities. Throughout the country, the best-quality forests remain in the hands of state actors. Non-state actors, particularly local people, mostly manage poorer quality forests. For example, of the forest areas allocated to local communities under the CFM Pilot Project, over 75% are poor forest and bare land. Medium quality forest accounts for only 10% and rich quality forest 1.4% (Table 1).

Table 1: Quality of forest allocated to communities under CFM Pilot Project

	Area (ha)	Percent
Bare land	2,383	14.1%
Poor and restored forest	10,411	61.7%
Medium forest	1,735	10.3%
Rich forest	242	1.4%
Mixed timber-bamboo	2,004	11.9%
Plantation	88	0.5%
Total	16,863	100%

Source: Enters and Nguyen 2009

As a result, FLA has contributed far less to poverty alleviation than it can. In some cases, it has even had adverse effects on forest communities. In Dak Lak, for example, FLA has a strong focus on forest management with too little attention to poverty alleviation (Bao Huy 2006; Nguyen 2006; Sikor and Nguyen 2007). In Hoa Binh province, better-off villagers took advantage of FLA to monopolize access to allocated forests while poorer villagers did not enjoy such access. More importantly, households with kinship ties to local officials often obtained forests of higher quality and closer proximity to villages than other people (Nguyen *et al.* 2008b).

Moreover, moving beyond national averages, it has become clear that FLA has been much more beneficial in the accessible areas of Vietnam's midlands than the more remote upland regions. Most of the increase in forest cover cited earlier can be attributed to natural regeneration and the expansion of tree plantations along the coast and in accessible areas around the deltas (Meyfroidt and Lambin 2007). In contrast, upland regions experienced further deforestation and did not see any expansion in tree plantations even where FLA was implemented (Tran *et al.* 2003). Similarly, local communities and poor people in the uplands often failed to derive significant benefits from FLA, whereas allocation provided their peers in the midlands with a new source of income (Tran *et al.* 2003; Nguyen *et al.* 2008a).

FLA, then, has laid important foundations for sustainable forest management and has contributed to poverty alleviation in Vietnam— but these benefits have thus far been limited to the midlands. More work is needed to generate beneficial outcomes in the upland regions.

Why does FLA work in the midlands but not the uplands?

Success factors in the midlands

Perhaps the most basic factor underlying the success of FLA in the midlands has been that forestry is predominantly focused on the production of wood in these regions. Since food security faded away as the dominant concern in the 1990s, villagers have used forestland primarily for wood production and are little concerned with ecosystem services and spiritual values. Moreover, wood production has taken the form of uniform plantations of single species, such as eucalyptus and acacia, managed in very short rotations. Harvests after three or four years are common, as plantation managers sell their trees to pulp and paper mills and chip mills. In this sense, forestry in much of the midlands has come to resemble agriculture. Land allocation thus generated similarly beneficial outcomes in forestry as it did in agriculture.

Second, plantation managers in the midlands have enjoyed good access to wood markets and productive resources. Due to rising international prices and the opening of Vietnam's economy to international trade and investment, wood processing industries have popped up all along Vietnam's coastline and in the midlands around the Southeastern industrial hub and Red River Delta. The industries offer a ready outlet for wood produced on household plantations all along Vietnam's coast and in the midlands. They have also attracted various traders and service providers offering seedlings, chemical fertilizer and silvicultural advice to tree planters. In Binh Dinh province, for example, good market access and high demand for plantation wood have incited local communities to engage in tree planting. FLA has given them legal access to forestland and provided reasonable security to warrant investments on the land (Box 3). This observation is not particular to Binh Dinh, however, and is true in many places with good market access, such as Phu Tho, Quang Binh, and Thua Thien Hue (Nguyen 2011, Roth 2005).

Box 3: Forestland allocation and tree planting in Binh Dinh

FLA was introduced in Thuan Phong village, Binh Dinh province, in 2004-2005, the Red Books for the forestland being issued in 2005. Since then, acacia plantations have taken off in the village. Most households manage small plantations, harvesting trees aged between four to six years. They typically sell the standing trees to local intermediaries. There is a thriving market for wood as Binh Dinh's chip mills require growing volumes of wood for export.

Access to the wood market, increasing international prices, and high demand for plantation wood has made tree planting very lucrative for local people. On average, people make a return of around VND 18 million per ha of plantation. This gives them a 'profit' of around VND 12 million per ha over a period of five years (excluding the costs of their own labor). This compares very favorably with the protection fee of VND 100,000 per ha paid under Program 661.

Source: Nguyen 2011

Third, FLA has been effective in the midlands because the priority given to individualized allocation has matched the widely shared tradition of individual land management. The predominantly ethnic Vietnamese households populating the midlands quickly revived the tradition of individual land management after the abolishment of the agricultural producer cooperatives in the late 1980s (Le *et al.* 1996). They set out to work their wet-rice fields, home gardens, tea and tree plantations, and upland fields individually. Indeed, group-based initiatives for collective plantation management remain virtually absent in the midlands (Moeliono *et al.* 2011; see also Box 4).

Box 4: Small-scale individual forest management in Phu Tho

Tree plantations are tiny in Phu Tho, if one looks beyond the large plantations managed by Vietnam's Paper Corporation and other state-owned forest companies. They measure a mere hectare on average, many being as small as 1,000 or 2,000 square meters. The plantations are so small because households prefer to work their plantations individually. Despite the potential benefits of cooperation, households have never formed any groups to manage plantations.

The traditional preference for individual management emerged again as a strong priority following the erosion of cooperatives in Phu Tho in the 1980s. Households began to work individual parcels on hills near their houses and claimed individual plots when the SFEs offered contracts for the reforestation of the hills. Since then, tree plantations have been managed by individual households.

Source: Le *et al.* 1996; Moeliono *et al.* 2011

Fourth, FLA is accompanied by state support in much of the midlands. Local people have been enticed to plant trees and undertake required silvicultural practices in their areas thanks to support offered by SFEs and state agencies, such as the reforestation payments made under the 327 Program in the 1990s and the seedlings and fertilizer distributed under the 5MHRP in recent years. Yet, state capacity mattered in more fundamental manners, beginning with the ability to implement FLA relatively quickly and to conduct land administration. In the midlands, forest managers have been able to access legal support for land disputes, land transactions, or harvests. This legal support has allowed villagers to exclude encroachers from their allocated forests, get land transactions certified, and obtain required harvest permits. In addition, district extension centers offer high-quality seedlings and other inputs as well as technical advice on silvicultural management. Perhaps most importantly, forest managers throughout much of the midlands have been able to gain financial support for tree plantations from Vietnam's rural banks (Sikor 2011). The Bank for Social Policies (BSP) and Agri-Bank have maintained a dense network of branches and mobile transaction points throughout the midlands, making it relatively easy for households to obtain loans for productive purposes (see Box 5).

Box 5: Access to financial services in Binh Dinh and Phu Tho

Vietnam's rural banks provide a ready source of external finance for households living in the rural areas of Binh Dinh and Phu Tho. The BSP operates branches at all district People's Committees and mobile transaction points in all communes. The bank has also initiated savings and loans groups in many villages, which have created effective links between villagers and bank officials. Similarly, the Agri-Bank maintains a network of district-level branches. The presence of these banks has given many households the chance to obtain external finance for significant investments. A survey of four villages in the two provinces revealed an average loan size of around VND10 million per household, and that a large majority of households had taken bank loans. Even though loan periods were relatively short (up to three years), they provided an important source of finance for tree plantations.

Source: Sikor 2011

In sum, the success of FLA in the midlands was due to the presence of favorable conditions for establishing tree plantations. These included the almost exclusive focus on wood production, good access to markets and productive resources, matching the traditions of individual land management, and effective state support.

Factors limiting the effectiveness of FLA in the uplands

The conditions in much of the uplands were not as favorable to FLA, resulting in much slower and less effective implementation compared to the midlands. As of today, large tracts of forestland have yet to be allocated. Almost one-fifth of Vietnam's forestland remains under temporary administration by (commune) People's Committees, awaiting further allocation (Figure 1). In practice, this means much of this land is under 'open access' regimes, as few People's Committees have the capacity to assume their legal responsibilities in forest management, nor do they have the mandate to contract the forestland to individuals or other entities for protection.

The most critical factors limiting the effectiveness of FLA in the uplands include:

First, whereas wood production was a key factor of FLA success in the midlands, upland forestry revolves around much more than simply wood production. Forests are significant to local communities and the wider society not only as a source of wood but also for the supply of a broader set of ecosystem services and symbolic values. For many ethnic groups, forests have been an important part of their lives for generations, providing them with food, wildlife, farming land, and shelter. Similarly, forests in many upland regions fulfill important watershed functions or serve as habitats for biodiversity. As a result, the FLA policy and implementation emphasis on wood production failed to accommodate the multiple values and uses of the forest prevalent in the uplands. In fact, FLA implementation has often led to restrictions of particular forest uses, with detrimental impacts on local livelihoods and non-wood forest ecosystem services (Nguyen *et al.* next section).

Second, upland people have lacked the access to productive resources and markets critical for making forest management profitable. Geographical distance and poor road conditions put much of the uplands beyond the reach of the wood market so vibrant in the lowlands and midlands, as transportation costs rocket to prohibitive levels. For example, Nguyen (2011) indicates that profit to a tree grower living 20km from the paper mill in Phu Tho is around 175,000 VND per ton of wood sold. With the transportation cost of around 1,500VND per ton per km, and assuming other variables remain unchanged, there is no profit for any tree grower living more than 140 km away from the mill. This simple calculation illustrates the disadvantage faced by more remote communities in managing forest for wood production.

Third, the diversity of forest management systems employed by upland villages, including management based on households, groups and village collectives, makes the upland FLA landscape more complex than in the individual management-focused midlands. As a result, the emphasis given to household-based allocation has made FLA incompatible with customary practices of forest management in many villages where local people have traditionally managed forests collectively. This situation has not changed much, even after the recognition of village collectives' legal status in the Law on Forest Protection and Development in 2004. FLA implementation has remained focused on allocation to individual households as set out in Decrees 02, 01, and 163. The dissonance between individual allocation and collective customary practices has significantly slowed the implementation of FLA in the uplands and has severely diminished positive outcomes, as illustrated by experience from Dak Lak (see Box 6).

Box 6: FLA to individuals versus collective forest management tradition

T'Ly village is located in Dak Lak province. FLA took place in 1998 and was completed by early 2000. Only nine out of 109 households living in the village during the time were selected to receive a total of 139.1 ha of forest, giving rise to two major issues in the village. First, legal access to forest was granted to less than one tenth of all households, leading to complaints about inequitable distribution. Moreover, forest management by individual households contradicted the customary practices of the Jarai villagers, who had been accustomed to communal forest management for generations. Allocation of forest plots to individual households turned out to be an exotic, and uncomfortable, idea. As a consequence, local people demanded reallocation of the forest to the village for collective management, which they deemed a more appropriate method.

Source: Nguyen et al. 2008a

Finally, commune and district People's Committees in the uplands possess weak capacity to support local people in forest management. This lack of capacity becomes apparent not only in the failure to roll out FLA but also in the inability to enforce forest regulations where FLA has been implemented, as local state authorities make themselves scarce once FLA has taken place. Experience from Dak Lak indicates that community members need back up from local authorities to stop outsiders from encroaching on their forests. In the absence of such support, local forest managers may turn on the forest themselves in an effort to get hold of as much timber as possible before other loggers pilfer their lands (Sikor and Tran 2007; see also Box 7). In addition, forest managers require access to external finance, which is much more restricted in the uplands than the midlands. Vietnam's rural banks concentrate most of their branches and available capital in the lowlands and midlands, making it quite difficult for upland villagers to take out loans.

Box 7: Deforestation in four villages of Dak Lak province

Nam, Dumah, Tlong and Dung are small villages in Dak Lak province. Their inhabitants received a total of 1,923 ha of forest distributed among 266 households through FLA in 2001. By 2007, all the timber in the allocated forest in the villages had been logged, and most of the land was used for agricultural production. Much of the remaining forest was bamboo.

Villagers had accelerated deforestation in their own forest because they did not receive any support from relevant state bodies for effective protection of the forest. From the outset, the local Forest Protection Units failed to prosecute violations of villagers' forest tenure rights. The recipient households responded by organizing forest protection among themselves. They had to recognize, however, that the Forest Protection Units did not punish any outside loggers, even when they were reported or delivered in person to the forest protection officers. Realizing that they were not able to stop outside logging, forest recipients rushed on the forest to get their share.

Source: Nguyen et al. 2009

Conclusion

The discussion demonstrates why FLA has not been able to generate positive outcomes in much of the uplands, whereas it has contributed to forest management in the midlands. FLA has seen limited success in the uplands due to the conditions characterizing uplands forestry, which are radically different from those prevalent in much of the midlands. The key differences between midlands and uplands are the key products and services provided by forests, access to productive resources and markets, present traditions of individual and collective management, and state capacity for support of forestry (Table 2).

Considering these differences in conditions, one cannot expect a single model of FLA to work in both types of settings. As successful as FLA has been in the midlands, it needs adjustment and accompanying measures to generate similarly positive outcomes in the uplands.

Table 2: The conditions for community forestry in the midlands and uplands

	Midlands	Uplands
Key outputs	Wood	Multiple: land, wood, ecosystem services, symbolic values, etc.
Access to productive resources and markets	Very good	Restricted
Management traditions	Mostly individual	Diverse, including collective and individual
Capacity of state support for forestry	Good	Limited

Source: The authors.

2. Too Much Focus on Forest Conservation, Too Little on Food

Nguyen Dinh Tien, Tran Duc Vien, and Nguyen Thanh Lam

While FLA aims not only to protect and rehabilitate existing forests but also to improve the livelihoods of local communities through use of forest resources, this is not always the case in reality. This section presents a case study of two villages in Central Vietnam where the focus on forest conservation has contributed to worsening the food insecurity problem among local people. The section ends with a number of policy implications for FLA.

Introduction

For the last two decades, Vietnam has embarked on a radical policy shift to devolve forest management rights to local communities. The program, known as Forestland Allocation (FLA), aims not only to protect and rehabilitate existing forest areas but also to encourage upland communities to improve livelihoods through use of forest resources. However, in practice, villagers receive very little benefit from forests while having to refrain from cultivating agricultural crops in forestland. In some cases, the FLA program focuses too much on environmental protection and conservation and provides little support to resource-poor local people to improve their livelihoods.



When the government started allocating forestland, only barren land and plantations were allocated to households and individuals. However, recent policy changes have enabled the allocation of other forests as well. Yet, by the end of 2007, only 62% (8 million ha) of total forestland was allocated due to lack of financial resources and because people are not always interested in receiving degraded or barren forest. The protection of natural forests thus seems to conflict with the objective of improving local livelihoods and represents a significant flaw in forestland allocation policies.

Figure 3: Location of Bu and Que villages

This section argues that if the villagers' forest management rights are strengthened, food security issues could be solved in these villages. We assert that although FLA has resulted in some positive effects for local people in some villages, food shortages are becoming more frequent at household levels in many areas. Our assertion is based on findings from two case studies in two poor villages (Bu village in Chau Khe commune and Que village in Binh Chuan commune, both in Con Cuong district, Nghe An province) where local livelihoods were predominately based on income from swidden (slash and burn) agriculture in forests. Data collection took place in 2005 and 2010.

Restrictions on Swidden Agriculture and Resulting Food Insecurity

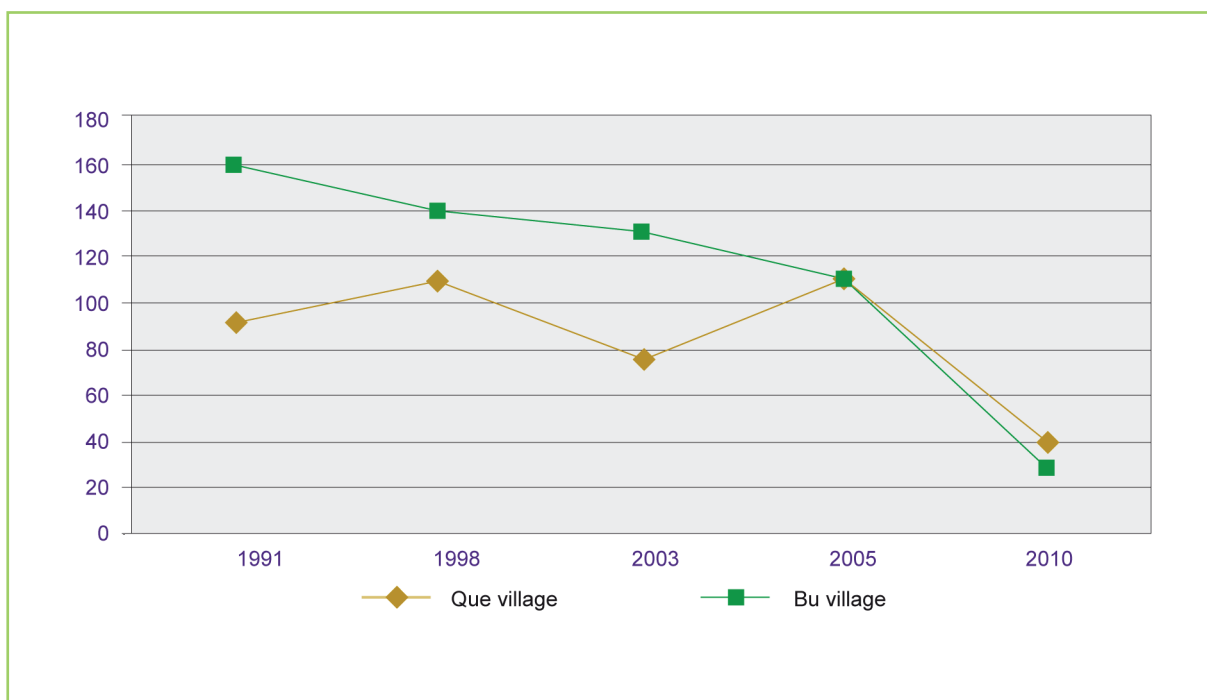
Forestland allocation to households took place from 1999-2000 in both sites. The program affected both land management and swidden practices, with the total swidden area in both villages decreasing after FLA. In Que village, the area was estimated at 92 ha and 110 ha for the period before FLA (1991 and 1998, respectively), sharply decreasing after FLA to 43 ha in 2003. Of this area, only 16 ha was reportedly cultivated annually, with the remaining 27 ha left fallow for the next cycle. Due to the pressure of population growth, local authorities allowed the expansion of the swidden area to 101 ha in 2005 and the area has remained stable since.

Similarly, access to upland fields by Bu villagers was restricted after FLA. The program started in 1999 and was completed in 2003. After FLA, the 150 ha previously under swidden agriculture was reduced to 81 ha, of which only seven ha are under cropping and the rest left fallow.

The decrease in swidden area has been accompanied by a shortening of the fallow period. In 2003, the fallow period for swidden fields was five years, but now most households (85%) must cultivate permanently on their fields to maintain their livelihoods.

As local livelihoods depend heavily on swidden agriculture (62-70% of local rice production), a decrease in swidden fields and the associated decreased rice production has led to an insecure food situation in both villages. The total rice production in Bu village decreased significantly, from 160 tons in 1991 to 30 tons in 2010 (see Figure 4). In Que village, the rice production was around 100 tons per year during the period 1991 and 1998. After FLA, rice production sharply decreased to less than 80 tons in 2003 and increased to 110 tons in 2005. Due to drought and extreme weather in 2010, rice production in both villages decreased to less than 40 tons per year.

Figure 4: Changes in Rice Production per Year in Que and Bu Villages (tons)



Households interviewed in both villages confirmed that they currently have less food than 10 years ago, mainly due to low swidden yield and reduced cultivated land. For example, less than 23% of interviewed households in Que village lacked rice in 2003, while this figure rose to 40% in 2010. Similarly, the number of Bu villagers suffering from rice deficit has increased since 1998. At present, around 20% of the interviewed households lack rice for more than five months a year and more than half run short of rice for one to three months (Box 8).

Box 8: Food insecurity problem in Que village

Mrs. Lo Thi Tham in Que village says that in the past, her family had enough food for six people. Ten years after forestland allocation, they now lack food for about eight to nine months per year due to insufficient land for cultivation and reduced yield from swidden agriculture. According to her, the reduced fallow time is the main cause of declining yields. Moreover, drought and extreme weather have also affected upland rice yields in recent years.

Lack of Alternative Income and Livelihood Sources

While local people had to refrain from shifting cultivation in both villages, the only choice for them to produce rice was through wet rice fields. Even so, the production of paddy rice was also limited due to unavailability of suitable land and water supplies. In Que, local people made efforts to adopt RVAC practices (rừng, vườn, ao, chuồng or forests, gardens, fishponds, livestock). However, without sufficient land and water resources, they were unable to implement the RVAC model successfully.

In 2010, the total income of household in Bu and Que village was 11.7 mil. VND and 13.9 mil.VND, respectively (equivalent to \$585 to \$695). The collection of non-timber forest products (NTFPs), which represented an important part of local livelihoods in the past, has also declined in recent years due to restrictions imposed after FLA. In 2003, forest products were primarily collected for selling, especially Broom grass (bông chít), a kind of grass used to make brooms, which played an important role (15% to 20%) in household incomes. The amount of NTFPs is decreasing due to the decline in the fallow area, as a result of the restriction on shifting cultivation. As of 2010, forest products contributed only 4% of the total income in Bu village and 6% in Que village.

Other income sources for local people in both villages include livestock, plantation, and off-farm activities. Livestock production played a significant role in household income in the past. In the period 1999-2003, cattle were left to roam freely in the fields. On average, each household had four to five cattle. Livestock contributed around 50% of household incomes in both villages. After FLA, villagers had to cultivate fixed areas. To protect crops from livestock, cattle were not allowed to wander freely in the fields. With the lack of grassland for cattle-raising, the number of cattle has decreased. By 2010, livestock production contributed only about 18% and 29% of total household incomes in Bu and Que village, respectively.

Due to restrictions on swidden cultivation, and decreasing income from NTFPs and livestock, villagers have to leave for off-farm employment. Income from this source has been increasing in recent years, particularly in Bu village where the swidden area per household is very low. However, this work is unstable and the salary is low, as local people are considered unskilled. Interviewed households confirmed that even where household income is higher than the period before FLA, they still lack food—which was not the case in the past. They have to buy rice from the market now, and cash is not always available.

Access to support services

To address food insecurity, the government has been providing rice for needy households in the two villages at a ration of four kg per head twice a year – during the Tet holiday and during the off-harvest season. However, according to villagers, this program just helps them address short-term problems, and the long wait between distribution periods is problematic.

After forestland allocation, the government introduced various programs for households, including agricultural expansion. However, these programs have not worked well so far, especially in Bu village, as the infrastructure is poor. Poor access to markets for agricultural products and high transportation costs are leading to the failure of agricultural extension efforts in Que and Bu villages.

Conclusions and Policy Implications

The evidence so far indicates that when FLA focuses too much on the conservation of forest resources and pays little attention to livelihood needs, life becomes difficult for local people. This is especially true where alternative livelihoods are limited, market conditions are underdeveloped, and access to external support is poor. In both villages studied, FLA has not been able to improve the livelihoods of local people. In fact, the strict conservation policy has contributed to worsening food insecurity.

Findings from the two cases have important policy implications:

- **Livelihood improvement needs proper attention in the FLA program:** The swidden area in both villages sharply decreased after FLA and while forest protection and development is an important objective, local livelihoods, particularly the food security of local people, needs to be taken into account. Without this, the objective of forest protection and development may not be realized in the long run.
- **Appropriate land/ resource use planning:** Local people should be involved in deciding what area of forest should be conserved, cultivated or set aside for other forest income generating activities. In food insecure areas, people need the possibility of using some forestland for the cultivation of food crops. This means that villagers and forest protection officials should do participatory forest management planning every three to five years, determining the amount and location of land for cultivation and amount/kind of timber products to be harvested.

3. Recognizing Customary Land Rights of Ethnic Minorities

Luong Thi Truong and Orlando M. Genotiva

Ethnic minority people have a special relationship with land and nature, which goes beyond mere economic interests to cultural and spiritual connections. As a result, recognition of customary land rights serves as the basic foundation for the economic, political, and cultural development of local people. This section uses the experience from the Philippines to demonstrate that recognition of customary land rights of ethnic minorities in Vietnam will be useful for both ethnic minorities and the country as a whole. The section ends with recommendations from the legal perspective.

Introduction

The majority of ethnic minorities in Vietnam such as the Vietnamese-Thai, Tay, Nung, Hmong, Muong, and Dao, have a special relationship with the land, elements, and other living creatures. This relationship goes beyond mere economic interests to cultural and spiritual connections to the places they have inhabited for generations. These connections were transmitted and nurtured from generation to generation, and ethnic minorities still possess the belief that “Land is sacred and land is life.” The expression of this sacredness is the presence of deities and spirits within the land and its resources that provide the essence of their existence.

Recognition and realization of traditional and customary land rights is the basic foundation for emancipation of ethnic minorities and their development—economically, politically, and culturally. Their relationship to their land and resources is deeply intertwined with their customs, culture, and political practices; it is the expression of their social wholeness. Living, working and nurturing the land with full control and tenure security is the key to living fully and surviving as a people. Taking the land from them implies losing their distinct identity, a serious deprivation of their sense of what makes them unique. Recognition by legislation of their struggle for land and life as an expression of their self-determination to carve their own destiny is a basic prerequisite for the fulfillment of their rights and cultural development.

Although Vietnam has a number of laws and policies on land and other natural resources, none of these laws provide legal recognition of ethnic minorities’ customary rights. This policy brief uses examples from the indigenous people in the Philippines to argue that legal recognition of ethnic minority customary rights to land and natural resources will contribute to better resource management and improved local livelihoods. However, in order to do so, a number of critical issues need to be addressed.

The Philippines experience

Indigenous peoples in the Philippines make up 10-15% of the total population, and are scattered in the major islands of the archipelago. The biggest numbers of ethnic groups are located in the south in Mindanao and in the north in Luzon. For almost four centuries under colonization by the Spanish and Americans, these people have struggled for recognition of their traditional and customary lands. Land was declared to belong to the State and laws were implemented without any considerations for indigenous people. This alienated them from their ancestral domains, and over the centuries, they gradually lost their distinction as a special group of people.

In the last three decades, however, the Philippines introduced radical legal reforms to recognize indigenous peoples' claims and demands. In 1987, the Philippines parliament changed the constitution (Art. II, Sec. 22): "The State recognizes and promotes the rights of Indigenous Cultural Communities/Indigenous Peoples within the framework of national unity and development". In July, 1997, the Indigenous Peoples Rights Act (IPRA) was passed to fulfill the promise of the 1987 constitutional recognition of Indigenous Peoples (IP) "ancestral land rights and its commitment to uphold international obligations. The IPRA Law recognizes, protects and promotes the rights of indigenous peoples, creates a National Commission on Indigenous Peoples (NCIP), establishes implementing mechanisms, appropriating funds for other purposes."

The IPRA Law recognizes the indigenous concept of ownership. It sustains the view that ancestral domains and all resources found therein shall serve as material bases of cultural development of indigenous people. The concept of ownership generally holds that ancestral domains are private while community property, which belongs to all generations, cannot be sold, disposed or destroyed. The IPRA Law provides clear and defined provisions on the rights to traditional resources to ensure sustainable development and land tenure security of IPs.

The NCIP is in charge of taking the necessary steps to identify, delineate and distribute lands which IPs traditionally occupy and guarantee effective protection of their rights to ownership and possession. After all necessary requirements and all legal documents are processed, the NCIP will issue a Certificate of Ancestral Domain Title (CADT) which formally recognizes the rights of possession and ownership of IPs. The NCIP has issued 71 Certificate of Ancestral Domain titles to date, covering an area of 1,635,973 hectares and 180 Certificate of Ancestral Land titles for an area of 5,628 hectares. In total, 251 certificates have been issued for an area of 1,641,601 hectares.

The IPRA Law, through the NCIP, instituted processes and procedures for free, prior and informed consent and legal assistance to IPs that involves national development programs and projects. It also encourages indigenous communities to implement their traditional and customary laws on resolving disputes and developing their own justice systems and conflict resolution mechanisms based on traditional practices. This serves as an alternative dispute resolution mechanism among communities, inter-communities, and tribes. IPRA Law provides guidance for IPs in conflict resolution and the development of traditional justice systems appropriate to existing judicial systems of the country.

Overall, the experiences from the Philippines show that with the legal recognition of indigenous peoples' rights, the value of ancestral domains for national development has been recognized. Recognition of customary tenure rights have contributed to indigenous peoples' increasingly important role in forest and wildlife preservation. It has also enabled regulated timber cutting, harvesting of forest materials, community efforts on reforestation of hardwoods, re-planting of herbal trees and plants and their preservation and classification in accordance with their customary and traditional laws. The legal acts allowed indigenous communities to voice opposition to the increasing number of mining projects sited on indigenous territories, even though this opposition often proved feeble in the face of the powerful interests behind mining. IPs consequently have become major players and partners in overall nation-building.

What is at stake in Vietnam?

With 54 ethnic groups living together, Vietnam is a country of rich ethnic diversity, although the Kinh or Viet ethnic majority makes up around 86% of the country's population. Land remains an important productive resource for minority ethnic groups, particularly those living in remote areas. These communities attach high political and cultural significance to land, and their control over it. Customary institutions and management are present in many ethnic villages, even though agricultural collectivization and the nationalization of forestland in the past have weakened them.

Box 9: Article 5 of Vietnam's 1992 Constitution

"The State of the Socialist Republic of Vietnam is a united State of the various ethnic communities cohabiting on the Vietnamese land. The State applies a policy of equality, solidarity and mutual support among the various ethnic communities and prohibits all acts of ethnic discrimination and division. The various ethnic communities have the right to use their own language and writing, to preserve their ethnic identity and to nurture their fine customs, traditions and cultures. The State implements policies for all-round development aimed at gradually improving and raising the material and spiritual conditions of life of ethnic minorities."

In Vietnam, all people are equal by law. This is reflected in Article 5 of the 1992 Constitution (see Box 9). Nevertheless, the emphasis on equality fails to recognize the fact that most ethnic minority people are underprivileged and marginalized. Unlike the Philippines constitution, Vietnam does not offer special protection to them, despite their historical status and contemporary marginalization. So, ethnic minorities, particularly those in remote areas, are often left behind in social development and have become one of the most disadvantaged groups. This, despite enactment of state policies now being implemented (Swinkels and Turk 2006).

In addition, the emphasis on equal treatment overshadows the significance of transnational conventions on Indigenous Peoples, which the Vietnamese government has signed. In September 2007, Vietnam became a party to the United Nations Declaration on the Rights of Indigenous Peoples which, among other things, grants Indigenous Peoples the right of Free, Prior and Informed Consent (FPIC) in relation to state interventions. In contrast to the Philippines, Vietnam so far lacks a specific law for ethnic minorities that defines them as a unique group of people, especially on the issue of customary land rights, cultural integrity and developments.



Deficiencies in Vietnam's land legislation

As with the broader legal framework, Vietnam's land legislation does not pay explicit attention to ethnic minorities' particular relationship to land. The general land policy is progressive, as it provides for the allocation of agricultural land and forestland to individuals and organizations for long-term use. As a result, ethnic minority people throughout the country have received land use right certificates for agricultural land and, to some extent, forestland, just as their Kinh counterparts. By the end of 2009, households – both ethnic minority and majority - had received 25% of all forestland, and communities held certificates to 1% of it.

Yet there are two key issues with current land policy from the perspective of ethnic minority people living in remote areas: First, much of the land important to them has been classified as forestland, even though they have long used it for cultivation and livestock husbandry. This has caused severe economic hardship to ethnic minorities and led to serious conflicts between forest protection officers and local villagers. Vietnam's land legislation thus is in stark contrast with the recognition in Philippines law that land is a key source for Indigenous Peoples' economic and cultural development.

Second, Vietnam's land legislation continues to ignore the role of communities in land governance, which is of particular concern in many ethnic minority villages. Although the 2004 revised Land Law allows land allocation to communities, they still do not possess any formal governance powers over land. They can receive collective land certificates, but they cannot make decisions about the use and assignment of land within communities. This runs directly counter to the customary role of community-based institutions and village leaders in land governance in many ethnic minority villages. It also radically differs from the recognition of indigenous notions of land ownership in the Philippines' IPRA.

Growing pressure on ethnic minorities' land

The land held and claimed by Vietnam's ethnic minorities may also require special protection because of growing pressure from big foreign mining corporations and development projects. National demand for cheap energy and increasing worldwide scarcity of mineral resources imply that large tracts of ethnic minority land can no longer be considered remote. They have attracted the interest of national development planners and international investors for the construction of hydropower dams and operation of mines. For example, Vietnam is estimated to hold the world's third-largest bauxite ore reserves, the majority of which are located in the Central Highlands (Tay Nguyen). Several mining projects are already underway, and preparations for several aluminium processing plants in the Central Highlands are very advanced.

Ethnic minorities' land is also under threat from other sources related to changes in global commodity markets and governance regimes. Worldwide demand for rubber, coffee, pepper and other primary commodities is revalorizing the land of previously remote ethnic minority villages, attracting interests by Kinh migrants, state companies and outside investors alike. New forest governance initiatives, such as Payments for Forest Ecosystem Services (FPES) and Reducing Emissions from Deforestation and Forest Degradation (REDD+), are attaching new values to forests, thereby making them a profitable target for state companies and private investors. All this outside interest in ethnic minority land has the potential to cause serious conflict between these communities and outsiders and to marginalize them further.

Conclusions

After centuries of struggle, the Indigenous Peoples in the Philippines have celebrated the enactment of the IPRA Law. Despite a large number of criticisms and reservations of provisions and definitions of the Law, particularly on the issue of the rights to Ancestral Domain (right to own, occupy and possess the land and its resources), ethnic minorities have gained constitutional and legal guarantees for claiming their rights as a distinct people. The Philippines constitution and IPRA Law guarantees the right to claim back ancestral lands. Significant numbers of CADT have been issued to ethnic minority tribes in various parts of the country.

Vietnam can learn from the Philippines experience and avoid the emergence of widespread conflict between local communities and outside actors, growing dissatisfaction by ethnic minority groups, and the further marginalization of these groups. Suitable lessons originate from the Philippine legal framework, especially the presence of a law recognizing ethnic minorities' particular circumstances and demands as well as land legislation that recognizes Indigenous Peoples' historical alienation from their customary land.

More specific implications for appropriate policy in Vietnam include:

- Introduce specific provisions on ethnic minority land in applicable land legislation (Land Law, Law on Forest Protection and Development, etc.), particularly the recognition of customary rights to land, forest, and other natural resources.
- Institute concrete implementation procedures for the Ministry of Natural Resources and Environment and the Committee for Ethnic Minority Affairs to identify sacred lands and places of ethnic minorities such as mountains, forests, lakes, uphill streams, rivers, burial sites, worshipping places, and hunting grounds.
- Expand the Cultural Heritage Law to apply to customary land rights. Land rights and land governance are part of human heritage just as much as the "Space of Gong Culture" recognized by UNESCO in 2005.
- Develop a new Law on Ethnic Minorities in close consultation with their representatives at national, regional and local levels, to include dedicated provisions to the protection of customary land rights.

New Policy Frameworks and
Community Forest Management
PART 2

4. Connecting Local Forest Managers with Beneficiaries: Payment for Forest Environmental Services

Juergen Hess and To Thi Thu Huong

In recent years, Payment for Forest Environmental Services (PFES) has emerged as a promising financing mechanism for the forestry sector in Vietnam. This section provides an insight into the PFES pilot in Son La province, in Vietnam's Northern Uplands, by the German International Cooperation Agency (GIZ). It also elaborates the lessons learned from upscale implementation of PFES, following the issuance of National Decree 99 in 2010.

Introduction

On 10th April 2008, Decision No. 380 was issued by the Prime Minister, marking the official start of the Payment for Forest Environmental Services (PFES) pilot in Vietnam. The rationale underlying PFES is a simple one: it connects local forest managers with the users of forest environmental services through direct payments (Wunder 2005). Downstream beneficiaries of forest protection schemes pay forest managers for the provision of particular services, such as hydrological benefits and watershed protection. However, in practice, PFES necessitates radical changes in the institutional design of forestry programs. Horizontal, contractual coordination between forest managers and service users ought to replace the top-down, bureaucratic implementation of centrally conceived programs.

The discussion in this section indicates that Vietnam's PFES program has yet to develop an appropriate institutional design to connect service users directly with local forest managers. This is one of the key lessons learned from the PFES pilot in Son La province, which the German International Cooperation Agency (GIZ) has supported at the Government's request. In a way, Son La had laid the foundations for PFES implementation by granting local forest managers the rights to use forestland in the early 2000s. While indirect payment can be seen as an appropriate immediate option during this initial period, the existing hierarchical structures reveal unavoidable obstacles to successful implementation of the PFES pilot as there are gaps in horizontal coordination between forest managers and service users.



Key Elements of the Son La PFES pilot

The pilot scheme has included nine communes in nine districts of Son La province where crop production and livestock husbandry are key livelihood activities.

Service providers: The Son La pilot has worked with a total of 4,507 forest owners, including households, communities and other organizations (see Table 3). Together, they hold a forest area of 58,571 ha, for which they have received forestland use rights (Red Books). Around two-thirds of the forest belongs to local people in various forms, the other third to organizations such as forest management boards and communal People's Committees.

Service users: Four downstream companies were included: Hoa Binh Hydropower Plant, Suoi Sap Hydropower plant, Moc Chau Water Supply Company and Phu Yen Water Supply Company.

Initial selected services: Given the biophysical conditions of Son La province, initially two forest environmental services were selected during the pilot period: soil protection and water regulation.

Payment levels: Payment levels were set for 1kwh of electricity (VND20/kilowatt or 0.1 US cents) and 1m³ of water (VND40/per m³ of water or 0.2 cent) in accordance with Decision 380. The payments due from each company were calculated on the basis of their total annual commercial water/electricity productivity.

Table 3: Forest owners and areas in Son La's pilot PFES scheme

Pilot Scope	Total	Households	Household groups	Communities	Organizations
Number of owners	4,507	4,094	136	105	172
Forest area (ha)	58,572	12,825	3,144	21,224	21,379

Source: Report on forestland revision on DARD – Son La – 3/2010.

Top-down Hierarchical Structures Slow down PFES Implementation

As in many PFES schemes in the world, the Son La pilot has not connected service users and service providers on a contractual basis. Instead, the pilot scheme has involved various state agencies as intermediaries, in particular PFES Management Boards, for coordination at several levels and the Social Policy Bank for the handling of financial transactions.

The collection of service payments has remained wedded to the existing hierarchical structure. At the national level, the Forest Protection and Development Fund (FPDF) collects payments from the Hoa Binh hydropower plant as it is situated downstream not only of Son La but a total of five provinces. Meanwhile, the provincial forest protection and development fund (Son La FPDF) gets payment from the remaining three companies as they are entirely located within the provincial territory.

In national policy debates, much attention has focused on the collection of service payments, in particular on companies' willingness to pay and the definition of affordable payment levels. Policy makers have stressed the need to compensate forest managers as an issue of social equality, and to reduce the state's financial burden from investment in forest protection and management. In consequence, much effort has been spent on explaining to service users the reasons for payment, consulting them about proposed payment levels, and allowing them to include payments into production costs. As a result, the affected companies expressed their agreement to make the required payments on a bi-annual basis, i.e., every July and January.

Box 10: Hoa Binh Hydropower Plant's unwillingness to pay

Mr. Nguyen Van Minh, the Deputy Director of the Hoa Binh Hydropower Plant understands the positive effects of forest protection in the upper watershed: "We are fully aware that good forest protection and management shall enable effective operation of our plant," he says. Yet the Plant can only disburse payment if it is authorized to do so by its parent company, Electricity of Vietnam (EVN). EVN, however, falls outside the reach of the Ministry of Agriculture and Rural Development (MARD), as it falls under the jurisdiction of the Ministry of Industry and Trade (MOIT). As a result, Son La's PFES scheme will only receive payments from the Hoa Binh hydropower plant if the Prime Minister requests EVN to do so.

However, the companies did not make the required payments despite considerable support from government agencies. By late 2010, only three out of the four companies had transferred the first payment in 2009 totaling over VND 60 billion. For example, Hoa Binh hydropower plant did not deliver any subsequent payments despite written requests by the national FPDF (see Box 10). One company, Suoi Sap hydropower plant, was unable to afford any payment due to significant losses.

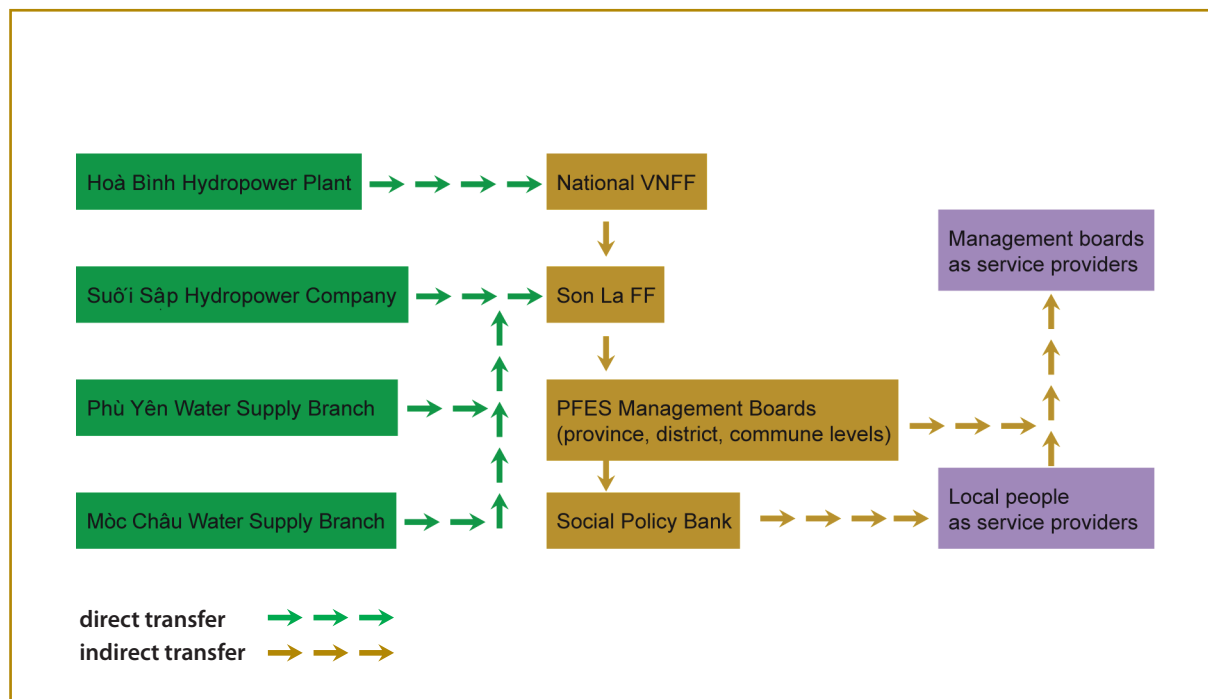
At the same time, local forest managers have not raised their voice to demand the promised payments, even though they would derive significant benefits from them. They have not done so despite their participation in various awareness raising and consultation events as well as widely distributed information leaflets and local radio programs. Forest managers are apparently not fully aware of their rights and potential benefits under the PFES scheme. Just as in the past, they seem to wait for the Government to step in and provide benefits in a top-down manner.

The Potential Benefits of a Decentralized Institutional Design

The experience from Son La suggests the need to move away from the command and control approach towards a decentralized design that promotes service providers' and users' own sense of responsibility and mutual accountability (Figure 5). Such a move can be achieved by enhancing the existing institutional structure through horizontal linkages at the central level between different ministries and between service users and service providers. This includes increasing decentralization, involving and empowering local people as partners, enabling a voluntary contracting market that specifies expected performance, rewards and accountability. Furthermore, it is important to recognize that local people are no longer seen as cheap laborers to be paid for forest protection but as equal partners and a driving force in forest management and development.

In addition to decentralization, the institutional design of PFES would benefit from forest managers' further empowerment through acceleration of forest and forestland allocation. The forestland currently under the control of state-owned enterprises and management boards needs to be transferred to local people for management and protection, including the issuance of forestland use rights. In the long run, direct and transparent involvement of local people as service providers and users in the PFES mechanism are crucial to ensure trust and a mutually beneficial relationship that enables both parties to fulfill their rights and obligations following market mechanisms without being forced by the state.

Figure 5: Decentralized Institutional Design for PFES



Implications for the Implementation of Decree 99

Insights from Son La indicate that the current institutional design of PFES is yet to serve the long term overarching goal of connecting forest managers with service users effectively. Critical constraints include forest managers' insufficient awareness, the command-oriented approach, inadequate collaboration and cooperation between different line ministries and agencies, limited enforcement, and insufficient understanding of rights and obligations for both service providers and users.

To improve its institutional design so it connects service users directly with local forest managers the PFES must:

- Raise awareness of all stakeholders from decision makers at national level to business production companies and forest owners, as planned by MARD in collaboration with GIZ and other actors.
- Develop an inter-ministerial guiding circular between MARD and MOIT that specifies mandates, rights and obligations of key stakeholders for a decentralized institutional design. Such a circular needs to define a clear management mechanism for the FPDF, including provisions for the collection of payments from different sources.
- Establish multi-stakeholder consultations for joint decision-making and consensus-building. Representatives of local forest managers and service users should be included as members of PFES management board at all levels.
- Empower local people to voice their views during decision-making and to monitor the program, for example through the establishment of forest owners associations as indicated in the National Forest Program.
- Monitor and evaluate performance of PFES in both financial management and impacts using participatory and transparent methods. Monitoring and evaluation should include representatives of service users and service providers.

5. Why REDD+ Needs Local People

Nguyen Quang Tan and Thomas Sikor

Reducing Emission from Deforestation and Forest Degradation (REDD) offers an unprecedented chance to move towards a rights-based approach in forest resource conservation. Vietnam is at a crucial junction: will its future REDD program employ a narrow payments approach or involve local communities as equal partners? This section discusses the reasons why Vietnam should involve local people in the implementation of REDD. It also presents some practical recommendations for Vietnam to move forward in this direction.

Introduction

Vietnam is one of nine pilot countries under the UN-REDD Program and work is already underway in Lam Dong province to test REDD mechanisms and to strengthen capacities at sub-national levels. Vietnam is also eligible for the World Bank's readiness funding under the Forest Carbon Partnership Facility (FCPF).

As local communities play a significant role in managing Vietnam's forests, the success of any REDD program will depend heavily on the meaningful engagement and participation of local communities and indigenous peoples. In Vietnam, community forest management has the greatest potential to deliver the increase in carbon stocks so urgently needed for climate change mitigation.

However, in order for local people to engage, REDD must offer clear benefits and the promise of active participation throughout the decision-making and implementation processes. The international REDD regime will include a number of social safeguards designed to ensure this. However, the Government of Vietnam has the potential to design a national REDD mechanism that goes further to address some of the country's most pressing social needs. A well designed REDD program could, for example, contribute to the national poverty reduction strategy, as well as the national policy on democratic participation.

To obtain positive outcomes for local people and REDD implementation alike, a number of challenges still need to be overcome. This brief explains why active community engagement is key to the success of Vietnam's future REDD program. It concludes by proposing a number of actions to help accelerate progress.



Why local people are essential to the success of REDD

Outside of protected area management, local communities are the largest forest tenure group in Vietnam. They have individual and collective rights to over 25% of the country's total forest area of 13.1 million hectares (Figure 1). Another 19% of the forest area is currently under temporary management of communal authorities. This area is expected to be partially or wholly allocated to local actors in the future.

This gives them a key role to play in forest management and monitoring changes in carbon stocks with the potential to maintain and, if possible, enhance them.

This makes local people essential partners in implementing REDD. They will be directly responsible for delivering results in terms of reduced deforestation and forest degradation in the areas under their control.

Forest areas under community management have higher potential for reducing emissions

Most forest areas allocated to local people are relatively poor in quality and have a higher potential for rapid increases in carbon stocks than better-quality forests (Table 1). As REDD includes the enhancement of forest carbon stocks, forest restoration by communities will make a significant contribution to the removal of greenhouse gases from the atmosphere.

Communities can be a cost effective alternative (and supplement) to intensive forest inventories by trained technicians. Experience from community-managed forests in Nepal and India shows how, with some basic training, local people can assess carbon stocks in their forests (Banskota et. al. 2007). The results of such accounting can be reported to state agencies responsible for more complex calculation of carbon stocks. In a national REDD program, where ground measurements of forest biomass must be carried out on a regular basis across large parts of the country, such an approach is an efficient and relatively inexpensive way of collecting data.

Knowledge of procedures and institutions is available for a large-scale community forestry program. Several projects have demonstrated that collaboration between state agencies and local communities can improve forest management. Key procedures and institutions, such as village forest regulations, benefit-sharing procedures, community-based law enforcement, and community forest management and protection funds, are in place. Experience indicates that local forest resources can be better protected and managed by communities than State Forest Enterprises (Tran et al 2003) or protected area management boards, despite massive subsidies and support from the state to the latter.

Going beyond social safeguards – adding value to REDD in Vietnam

Although social and environmental safeguards for REDD are not yet finalized, they formed a key element of the negotiations in Copenhagen. In order for the Government of Vietnam to receive REDD finance from the international community, local communities must be involved at every stage of REDD planning and implementation. Transparent, direct involvement of local people is essential to build trust and confidence, an essential prerequisite for REDD to succeed.

In addition to delivering forest data and results, community engagement in REDD also offers the opportunity to address pressing social issues. Income from REDD can make an important contribution to on-going efforts to reduce poverty among forest-dependent communities. Data from Nepal indicates that, at a carbon price of US\$5/t CO₂e, revenue from forest carbon could comprise up to 30% of the net financial benefits of community-managed forests to local people (Karky and Skutsch 2009). Over the past 15 years and at the national level, Vietnam has made significant progress in reducing poverty. The remaining challenge is to tackle poverty in forest areas, which are more difficult to access and further from markets. Financial benefits from REDD may provide much-needed supplementary income while keeping communities in harmony with their forest.

Globally, the mechanism for delivering financial benefits to local communities remains to be developed. However, the Government of Vietnam is one of the first to have taken concrete steps to develop an equitable, yet cost effective, benefits distribution mechanism.

Funds for these payments need to begin prior to the receipt of performance-based payments at the national level. They would therefore be an important element of readiness activities funded under UN-REDD and FCPF. These payments should not be linked to revenue generated by achievement of future REDD targets.

Involvement of local communities in REDD is in line with the democratic participation policy currently pursued by the Government of Vietnam². The policy emphasizes the rights of local people to be informed and consulted, and to participate in decision-making processes.

In addition, the active participation of local people will help in ensuring that social safeguards under a future international REDD mechanism are fully met. A frequently voiced concern is that REDD may lead to violations of the rights of poor and marginalized groups. As most forest-dependent communities in Vietnam belong to ethnic minorities, their meaningful involvement in REDD is an important indicator that their rights are being respected and that their interests, needs and aspirations are being met.

² Decree 29/1998/ND-CP dated 15 May 1998 and Ordinance 34/2007/PL-UBTVQH11 dated 20 April 2007

The way forward – towards full community participation in REDD in Vietnam

There are a number of critical actions the Government of Vietnam can take to accelerate progress and overcome existing challenges, ensuring that local people are able to play a full and active role in the success of REDD in Vietnam.

- **Providing secure rights to forestland:** For local communities and indigenous peoples to benefit from REDD, secure and strong rights to forests are a prerequisite. Above all, local people holding rights to forestland need to be certain that they are entitled to claim the award from the carbon in their forests.
- **Accelerating the allocation of forestland:** The Government of Vietnam needs to speed up the transfer of unallocated forest to local communities. Currently, almost one out of five hectares remains in legal limbo. Rapid allocation could boost community forestry to almost double the current area within a few years.
- **Effectively and equitably enforcing the law:** For REDD+ to work effectively, the legal framework needs to apply to all forest owners in the same way. Law enforcement has to recognize the rights of local communities and indigenous peoples as much as the rights of other forest managers.
- **Clarifying the functions of state agencies:** A clear separation between the state agencies managing forests and monitoring forest management is required. The state agencies competing with communities for REDD funds must be different from those in charge of monitoring and law enforcement.
- **Minimizing transaction costs:** Forests owned by communities are often small in size. Performance-based payment therefore faces high transaction costs. If communities have to bear such costs, REDD payments may not be sufficiently attractive. Bundling of community forests at commune or district level should be considered.
- **Offer interim support conditional upon performance:** It will take time for performance-based payments to reach forest owners and managers. Until REDD funds are disbursed, interim financial support must be offered to communities (e.g. in the form of conditional savings books). Such interim support would be conditional upon eventual performance.

Community Forest Management

The Way Forward

PART 3

6. Five Reasons for Promoting Community Forest Management

Nguyen Quang Tan and Thomas Sikor

There are good reasons for the Government of Vietnam to promote community forest management. This section identifies five reasons why it makes sense to entrust communities with the management of a significant share of Vietnam's forests in addition to the currently dominant State Forest Companies and Protected Area Management Boards.

Introduction

CFM has gained significant recognition as a critical component of Vietnam's forest policy and forest management on the ground. Nevertheless, the strong progress in the promotion of CFM in the period 2000-2005 has slowed down over the past five years. It is important, therefore, to remind ourselves of key reasons CFM should be promoted in the uplands, and how it can contribute to key policy objectives in Vietnam.

In this chapter, we identify five key reasons policy makers should promote CFM in Vietnam. These include pragmatic ones – CFM has been shown to work on the ground, both in terms of forest management and poverty alleviation – as well as normative ones, including the strengthening of local democracy, recognition of local culture, and compliance with the GoV's international commitments.



Traditional community forest management works on the ground

Policy makers may promote community forest management on pragmatic grounds. Local communities already manage significant areas of forest in practice with or without formal recognition by the government. An unofficial estimate from a survey conducted by Department of Forestry (DOF), which is currently known as Vietnam Forest Administration or VNFOREST for short, in 2008 indicated that there are currently around 247,030 ha of forestland managed in a traditional way without legal title (DOF 2008). Of this, 175,395 ha is forest and 71,634 ha is bare land. There is also significant evidence of community management in many remote locations (e.g. Nguyen *et al.* 2008). The evidence suggests that people generally recognize the rights of a village to the exclusive use of major forest products from forests in its vicinity (Box 11). Outsiders are typically expected to seek villagers' permission before they use village forests. Internally, many villages also grant previous cultivators of forestland the right to exclude others from using the land.

Box 11: Traditional 'Forest Ownership' in Cham B

Like many indigenous villages of the Central Highlands, villagers of Cham B have been living in close connection with forest for generations and maintain a traditional system of ownership to forest resources despite the state's claim to the forest.

There is a patch of forest locally known to belong to the village where former generations of Cham B inhabitants used to live and farm. For Cham B villagers, access to arable land in this forest area is regulated by local institutions. Farmers whose parents used to farm in this forest area can go back and set their claim on this land. As a tradition, when someone first cleared a patch of forest for cultivation, (s)he would plant several mango trees in the field to mark the ownership. This has become a symbol of land ownership recognized by all villagers.

Similar to land for cultivation, local people also have a traditional way of claiming ownership of timber trees, which is based on a "first see, first own" basis. Households seeking timber (for their houses) set their claim on a tree by making a clear and visible mark on the tree trunk. A tree (in the forest) with a mark on the trunk means it has been 'owned' and only the one who made that mark has the rights to take the tree home. For 'one-hundred-year-old' trees, a valuable species most appropriate for the house pole, people are only allowed to take big trees for the poles and have to spare the small ones for future use.

Violation will be sanctioned by traditional rules. A traditional village headman will decide the punishment. He is also responsible for settling disputes in accordance with customary law.

Source: Nguyen (2005)

Formal recognition of de facto community management would provide communities with the legal security they need to develop sound forest management on the foundations of their customary practices. The transfer of forest tenure would strengthen villagers' incentives to protect forests and their capacities to stop outsiders from encroachment. The legalization of community management would also enhance villagers' abilities to derive material and immaterial benefits from forests. Denial of formal recognition, in contrast, may lead to detrimental outcomes for both villagers and forests, as illustrated in Box 12.

Box 12: The consequences of denying recognition to community forest management

The Dao inhabitants of a small village in Hoa Binh have long managed the forest surrounding their village. People living in the neighboring villages have recognized their customary rights to the forest by either refraining from use or requesting villagers' approval before use. In the 1990s, the district authorities initially recognized community management by granting villagers Red Books to the forestland for productive purposes. Yet later they rescinded, zoning the forestland for protection and thereby severely curtailing villagers' rights of use. In addition, national logging bans made it virtually impossible for villagers to harvest and sell any timber legally. Yet timber harvests have continued despite the legal hurdles, and may even have increased over time. Villagers increase harvests as they are unsure about their ability to benefit from the forest in the future given the experience of frequent changes in government policy. They also need to cut more timber to derive similar benefits, as the logging ban has strengthened the grip of powerful traders and brokers over the timber trade and profits.

The legal restrictions thus have generated counterproductive effects. The recognition of villagers' forest rights and limited timber extraction would have produced better outcomes for the forest and villagers' livelihoods.

Sources: Sikor and To Xuan Phuc 2011

An option to alleviate poverty in the upland forest areas

Community forest management can make significant contributions to poverty alleviation. Despite the impressive gains made in poverty reduction nation-wide, remote areas with significant forest cover remain pockets of entrenched poverty (Mueller *et al.* 2007). The percentage of poor people is high where forest cover is dense. At the same time, forests provide a variety of resources for local people, both to cover their own subsistence needs and to generate income (Sunderlin and Huynh Thu Ba 2005). In addition, forests may also become a significant source of income for local people when PFES and REDD+ are implemented nationwide.

The expansion of community forest management can enhance the benefits derived from forests by local people, particularly the poor among them (Box 13). Villagers could use some of the forest for the production of agricultural crops for subsistence and cash income. Villagers could also benefit from the revenues generated from community logging, as indicated by a growing number of pilots conducted with support by GIZ and KfW (Nguyen *et al.* 2008; Nguyen *et al.* 2009; Wode and Bao Huy 2009). In addition, they could derive cash incomes from PFES and REDD+ contracts which would go significantly beyond the current level of payment (VND 100,000 per ha) in the 661 Program.

Box 13: Contributions of community forest management to the poor

T'Ly village in Dak Lak province is well known in Vietnam as the first example of commercial logging from natural forest by a community. In August 2006, T'Ly villagers harvested 368 cubic meters of round logs from their allocated forest. The timber was then sold at the price of 616 million VND (around US\$38,500). After payment of taxes and transaction costs, the village was still left with a net benefit of VND283 million (approximately US\$17,700).

The community used income from the timber sale to pay for the forest patrol and to contribute to the community development fund. Poor households in the village have been able to proactively benefit from this income. The whole village has decided to use part of the cash to support the five poor and needy households in the villages. VND20 million (US\$1,250) have been used as loans to these five poor households; each household received VND4 million for economic development activities.

Source: Nguyen *et al.* 2009

Community forest management strengthens local democracy

Community forestry can support ongoing efforts by the GoV to strengthen grassroots democracy. In 1998, the GoV put in place a new legal framework to expand people's participation in local government. The general effort on strengthening grassroots democracy found its reflection in Circular 56 (1999) on the establishment of village forest and development regulations, as it allows local people to participate in the design and implementation of regulations on forest protection and management. Most recently, in 2007 the GoV reiterated its commitment to strengthening grassroots democracy and provided detailed guidelines for the operation of commune-level authorities in Ordinance no. 34.

The promotion of community forestry would make a major contribution to ongoing efforts of enhancing grassroots democracy (Box 14). Forests are not only a major source of livelihood to local people, but they also form a major part of village territory in many locations. Giving people tenure rights to forests and devolving some decisions over forest management to them would enhance their participation in decisions affecting their own lives. Just as postulated by the GoV ('people know, people discuss, people do, and people check'), local people would know more, have an additional forum to discuss matters important to them, engage in actual forest management, and check the actions of government agencies concerning forests.

Box 14: Enhancing local democracy through shared forest governance

When the authorities of Dak Lak province transferred tenure rights to the Ede people of Cham B village in four groups, they assumed that Vietnam's existing regulations provided clear governance arrangements for forest management in the village. Yet it became clear that the regulations were too general and required adaptation to local circumstances. For example, villagers distinguished between the rights to cultivate forestland, to extract timber, and to collect minor forest products. As for the former, they recognized the rights of villagers from neighboring Cham A, as those had used some plots in the allocated forest previously. As for the right to extract timber, they generally granted every villager the right to cut trees wherever suitable in the whole forest. Also, they were willing to grant migrants living around their village the right to extract minor forest products.

Thus the people of Cham B wanted to adapt the rules provided by forest regulations to their own circumstances. They did so in practice, thereby expanding and strengthening the exercise of democracy at the grassroots. Yet the move towards shared forest governance would have been more effective and empowering if forest regulations had recognized villagers' role in forest governance in the first place.

Source: Sikor and Tran 2007

Recognition of local culture through community forestry

Expanding support for community forestry would feed into broader efforts by the GoV to recognize the existence of distinct cultural traditions. Resolution No. 5 passed by the Central Committee of the Communist Party in 1998 and the 2001 Law on Cultural Heritage offer broad support for the expression of cultural traditions, inviting local, bottom-up efforts to revive practices of spiritual and symbolic significance, such as local festivals. The GoV also supports applications for the recognition of intangible cultural heritage under the 2003 UNESCO Convention for the Safeguarding of Intangible Cultural Heritage. In 2005, for example, UNESCO recognized the gong culture of ethnic minorities of the Central Highlands as a 'Masterpiece of the Oral and Intangible Heritage of Humanity'.

The promotion of community forestry would support these wider efforts to recognize distinct cultural traditions. Forests are a critical element of local cultures in many places, as village communities have developed rules and practices for their management. Forests are not only critical sources of livelihood to them, but the use and management of forests is closely tied to people's values and their visions of a desirable landscape and appealing future. Forests are also imbued with local meaning, as people attach cultural significance to particular places, species, and events located in forests (Box 15). They are, furthermore, part of broader village governance, as reflected in the role of traditional village headmen across the Central Highlands and parts of the northern uplands (Nguyen *et al.* 2008).

Box 15: Black Thai sacred forests

Many Black Thai villages continue to protect small patches of old-growth forest in their vicinity. Although villagers may collect dead branches for firewood, they do not cut live trees or open up agricultural fields in the sacred forests. In addition, they prevent outsiders from using the forests. Villagers protect the forests because they consider them to harbor spirits with influence over their lives. Cutting a tree or clearing an agricultural field in the forest could upset the spirits and thereby cause detrimental effects on villagers' lives. Sacred forests thus are an important element of villagers' spiritual relations to the wider world, similar to wedding and funeral rituals.

Source: Sikor and Dao 2000



Community forest management and international commitments

The promotion of community forestry would help the GoV to fulfill its international commitments. For example, the GoV has signed the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP). The Declaration implies the assurance that a minimum set of human rights applies to ethnic minority people in Vietnam (Box 16). The GoV is also Party to the Convention on Biological Diversity (CBD), which mandates that local people should participate in the management of ecosystems and derive a fair share of the benefits. Furthermore, the new climate change agreement is expected to build in explicit safeguards for local communities' rights to participate in and benefit from REDD+ actions, such as the right of Free, Prior and Informed Consent (FPIC). All these transnational agreements build in legal mechanisms through which local communities can file complaints or even seek legal recourse against violations of their rights. The promotion of community forestry would help the GoV to avoid becoming the target of transnational court cases, such as those pursued by indigenous peoples in Latin America and Africa.

Box 16: The application of Free, Prior, and Informed Consent (FPIC) in forestry

Article 19 of UNDRIP requires states to "consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them." In response, the GoV and UN-REDD Program have for the first time used the principle of FPIC to consult local communities in Lam Dong province. As they prepared a REDD+ pilot action in selected villages of the province, they consulted people in a total of 76 villages during the first half of 2010. The UN-REDD Program would not have been able to proceed with the preparations of the REDD+ pilot actions without the consultation based on the principle of FPIC.

Source: UN-REDD and MARD 2010

Conclusion

There are strong reasons why the GoV may want to promote community forestry as an attractive option for the management of Vietnam's forests. Community forestry holds the potential to contribute to key overarching goals in Vietnam's socioeconomic development: sustainable forest management, poverty alleviation, local democracy, recognition of cultural traditions and compliance with transnational legal norms. In addition, the GoV may support community forestry on pragmatic grounds, as many communities already manage forests in practice.

7. Reducing Conflicts through Co-management: Lessons from Tram Chim National Park

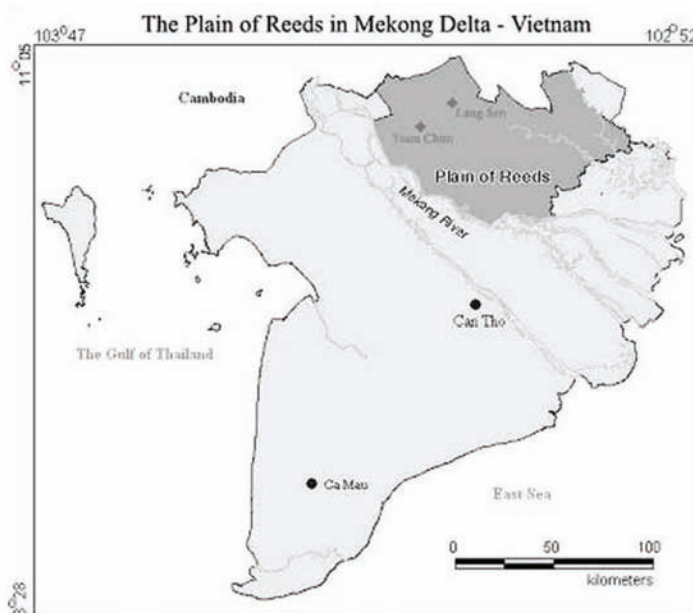
Lai Tung Quan and Suriya Vij

Conflicts in natural resource management have undermined the efforts of conservation, particularly when local people are left out. Various initiatives have been implemented in an effort to resolve conflicts. This section illustrates how conflicts can be resolved and the dual purpose of conservation and livelihood improvement met by involving local communities in a co-management initiative in Tram Chim National Park. It ends with an elaboration of policy implications from co-management in the Park to natural resource management as well as grassroots democracy policies.

Introduction

Conservationists worldwide are moving away from advocating exclusive protected areas to an acceptance that resource-dependent communities around them form an important part of the ecosystem (McElwee 2010). Strict separation between preservation and use is no longer considered suitable, particularly for population-dense countries such as Vietnam.

Figure 6: Location of Tram Chim National Park



Protected area management in Vietnam focuses on enforcement to stop exploitation of forest resources. Until recently, Vietnamese law precluded collection of any forest products from special-use forests even if the conservation impact was low. This is not good news for millions of people living near Vietnam's 2.3 million ha of protected areas, who rely on these resources for their livelihood. Local communities bear the cost of protecting natural areas, through the loss of legal access to resources, and this causes tensions and open conflict with authorities.

This section argues that some access to protected area resources is possible, provided it is carefully controlled and involves local people.

A participatory wetland conservation project has been trialed in Tram Chim National Park (TCNP) in the Plain of Reeds, Mekong Delta, Vietnam. This has involved extensive consultation with local people to allow legal use of some resources in a controlled manner within specified areas. The recognition of people's rights to harvest forest products for subsistence, and facilitation of their participation in the design of management actions, has greatly relieved tensions between the local people and Park authorities, and has in fact improved Park management through better cooperation.

Conflicts in past management of Tram Chim National Park

TCNP was designated as a special-use forest and wetland conservation area in 1998, and is governed by the Ministry of Agriculture and Rural Development (MARD) under the Law on Forest Protection and Development, and the Ministry of Natural Resources and Environment under Decision No. 109/2003/CP on the conservation and sustainable development of wetlands. Its mandate is to preserve the wetland biodiversity of this last remnant of the Plain of Reeds. Tram Chim is home to about 200 species of birds, of which 16 are globally significant, especially the Sarus Crane (*Grus antigone sharpie*), which migrates there in the dry season.

Legally, the National Park authority had responsibility for day-to-day management, overseen by the Provincial People's Committee and the District People's Committee. The Park authority is also accountable to MARD and other government agencies. This governance arrangement precluded involvement of local people – direct stakeholders – in park management, and was highly centralized and bureaucratic.

Consequently, local people called the Park 'Rừng Cấm' or 'forbidden forest' and did not consider themselves to be stakeholders in its conservation. Vu Thi Nhung (2004) reports that about 90% of households surrounding the Park did not understand the purpose of the protected area, and 94% said it did not bring any benefit to their lives. The lack of incentive posed a challenge to achieving greater participation from communities in stewardship of the Park and its resources.

In 2008, 60% of the population surrounding TCNP was classified as poor, with 3,374 poor households located in villages directly adjacent to the Park boundaries (TCNP 2010a). For most users, income from forest products harvested from the core zone (mostly fish and vegetables) fills gaps and complements other income in times of need, rather than being a steady income source.

Figure 7: Decrease in Sarus Crane numbers in Tram Chim National Park, 1998 - 2006.



Source: TCNP annual records

The exclusionary management approach did not work well in TCNP either to protect forests and biodiversity or to stop illegal and unsustainable resource use (TCNP 2010b). In fact, it led to the rapid degradation of resources (Figure 2) due to pressures from surrounding communities, and about 95% of incidents of arson were by local people, either for rapid resource extraction or to distract the Park authorities from illegal activities (Nguyen & Wyatt 2006). There was also little coordination on socio-economic development for local people in order to reduce such pressures on the Park (Vu 2004).

Considering this background, the idea of a participatory project to serve poverty alleviation, wetland conservation, good governance, and conflict avoidance was suggested. This initiative was carried out with support from the CARE subproject of the Mekong Wetlands Biodiversity Conservation Program (2006) and WWF-Coca Cola (2008 – 2010).

Co-management for avoiding conflict and improving conservation

Since 2008, the co-management pilot in TCNP has facilitated groups of participants to develop their own Natural Resource Management Plans using a set of local guidelines provided by the Park authorities. Participants negotiate their plans with a review committee (community representatives, Park and local authorities,) to ensure sound democratic practice as well as environmental sustainability. Specific locations, fishing methods, harvesting periods and quotas are determined. Given the Park holds executive rights over the plan, it has been negotiated to make sure that local resource users benefit significantly from participation. Through this process, an improved level of understanding of the benefits of conservation has been achieved among participants, as well as an acceptance of measures such as harvesting quotas and seasonal effects.

Legal access to the Park and its resources provides essential income for the local poor and acts as a safety net against impoverishment when other forms of income are unavailable, such as in the flood season when agricultural activities are impossible. In 2009, after two years of co-management, participating poor households received 30,000 to 50,000 VND for a single fishing day (TCNP 2010). Each participating household received additional income of 1.3 million VND per month (Lai 2011). The success of the program encouraged the Park to expand the co-management areas from 720 to 900 ha in 2010. A survey conducted in July 2010 showed that 63% of 120

interviewees, including some who were not actively participating in co-management, supported its implementation for poverty alleviation and to control pressure on the Park's resources.

"I used to poach in the park and was arrested many times by the Park Rangers. We knew that it was illegal but we needed food for our daily survival - my family is too poor. Now, I am very happy to be harvesting legally inside the park for income generation. I hope the Park allows me to do this every year."

Mr. Nguyen Van Loc, Group 4, Phu Hiep Commune

"I was an ice cream shop vendor last year. This year I was allowed to catch fish inside the Park. I just need to visit my traps every other day to put in more decoy and collect fish. I can get 4-7 kg of fish every two days. It is easy and brings me more income than selling ice cream. Moreover, I still have time to sell ice cream for extra income."

Mr. Ba, Group 4, Phu Hiep Commune

Chavalit (2006) estimated the fish stock in TCNP to be about 2,500 tons per year. At maximum sustainable yield, the Park's ecosystem could support harvest of 50 tons of fish annually. The current harvesting figure is around 12.5 tons of fish per year (Table 4), so there is potential to expand the benefit to more poor families. However, annual fish trends must be evaluated and the quota adjusted to suit environmental conditions. This year, the water levels in the flood season were particularly low, partly due to upstream dams, resulting in low fish stock. Local people could monitor fish stocks as part of Park management.

Table 4: Resources harvested from the Park under co-management in 2009

	Harvest per man-day in 2009	Total in 2009
Fish	2.1 kg	12,526 kg
Grass for fodder	260 m2	150,600 m2
Vegetable	9.1 kg	6,209 kg
Snail	56.2 kg	18,587 kg
Fuelwood	1.4 stere	2,155 stere

Source: TCNP 2010a

Co-management has promoted understanding of the Park's biodiversity value and resources, opened up communications between the local people and authorities, and reduced conflict through improved relationships. Since implementation, a reduction in forest fires has been observed, due to reduced arson attacks and the collection of grass and dead wood in piloting areas reducing fuel load (TCNP 2010). Further, the number of cases of electric shock fishing recorded by the management board has greatly reduced.

This negotiated access to Park resources is not opening up new areas to exploitation – it simply regulates what is already happening and provides transparency. This arrangement allows local people and authorities to work together towards conservation goals, and has led to greater compliance from local people to management regulations they have helped to formulate.

Linking grassroots democracy and natural resource management

Park management today recognizes the rights of local people to harvest forest products from pilot areas for subsistence, and facilitates their participation in the design of management actions. The example of TCNP demonstrates that the role of local people in the management of protected areas needs to be recognized in Vietnam's policy framework, particularly the need for allowing some harvest of forest products and involvement in management actions. Decision 178/2001/QD-TTg and Decree 117/2010/ND-CP are important steps in this direction, but further action is essential when benefit sharing mechanisms are piloted and scaled up. The requirements and implementation will be different for each national park according to its ecology and specific pressures on resources, but the lessons learned in TCNP are likely to be pertinent to many.

Vietnam's Government should consider amending the Law on Forest Protection and Development and the Biodiversity Law, which presently prohibit exploitation of forest resources in protected areas. Exemptions to allow activities under a Natural Resource Management Plan approved by the National Park authority could be agreed. This would also promote empowerment of local communities to conserve their traditional knowledge and skills in management of natural resources, and to communicate this information to Park authorities.

Thus, insights from co-management in TCNP have the following policy implications:

- The Forest Protection & Development and Biodiversity Laws should include requirements for local people to be involved in management decisions. This supports the democratic participation policy, creating linkages between democracy and conservation laws in Vietnam.
- The Forest Protection & Development and Biodiversity Laws should allow actions under an approved Natural Resource Management Plan.
- The implementation of Decree 117 should support the development of specific benefit sharing mechanisms that allow local people to use forest products essential for their subsistence and facilitate their participation in the design of management actions.
- The Government of Vietnam's democratic participation policy (Decision No. 29/1998/N-CP and Ordinance 34/2007/PL-UBTVQH11), which allows local people to exercise their right to be informed and consulted and to participate in decision-making processes, could be extended to specifically include natural resource management and local communities.

8. Enabling Diverse Governance Structures for Community Forest Management

Do Anh Tuan, Nguyen Ba Ngai, Vo Dinh Tuyen and Le Tuan Anh

With the approval of the 2004 Forest Protection and Development Law, the legal status of community forest management (CFM) has been recognized. Yet, the concept of CFM is limited to forest management by a village. This section provides a discussion on the diversity of governance structures in CFM and the importance of legally recognizing them to promote development of community forest management in Vietnam.

Introduction

With nearly 2.8 million ha (approximately 27% of the total forestland area) being managed by thousands of local communities, Community Forest Management (CFM) is key in Vietnam. However, evidence from the field shows that the outcomes of CFM are not uniform.

Several factors influence CFM outcomes, and governance structure is one of the most important. This policy brief analyzes the diverse characteristics of governance structures in CFM in Vietnam and gives some policy recommendations for achieving more productive forests. It argues that CFM governance structures do not follow a fixed template but are the outcomes of local, adaptive processes. Therefore, community forest management experiences, conditions, and participation of local communities should be fully acknowledged in forming and adjusting new CFM models. Data for the analysis in this brief comes from 31 CFM sites in seven provinces in the North, Central and South Vietnam (see map).

Figure 8. The location of the study provinces



Governance Structure for CFM: Diversity and Legal Framework

Empirical research and theoretical studies have shown that local communities have been able to manage their forest resources successfully. In recent years, issues related to the governance structures and types of CFM models have caught the attention of both policy makers and researchers. In some cases, different structures have even been institutionalized, like Forest Users Group (FUG) in Nepal, a CFM model that allows group sizes of between several households to a whole village or even several villages depending on the reality of use patterns in a particular area of forest.

In Vietnam, the government has officially acknowledged the 'village community' as a legal entity for forestland management. The Law on Forest Protection and Development of 2004 clearly says, "a village community embraces all households living in a village or equivalent unit." Therefore, from a legal perspective, only one CFM governance structure is recognized in Vietnam, which can be described as forest management by a whole village (Village forest management, or VFM). It is similar to Village Forestry in Indonesia and Lao PDR.

In reality, CFM models in Vietnam are rather diverse in terms of origin and governance structure, and can be grouped into two major types. The first is VFM, in which all the households of a village belong to a forest management group, as specified in the law. The second is forest management by groups of households (HHG), which is formed by a small number of households – a subset of a community. The HHG model can be seen in places where the village population is dispersed in different settlements, and each HHG often manages a patch of forest near their homestead. In comparison with the VFM model, the HHG model is characterized by smaller group size and is more homogenous in terms of ethnic composition and/or interest among HHG members. Normally, the group size of an HHG model is not more than 20 households while the size of a VFM model is as large as the village population, sometimes over 100 households as in the case of the T'ly village in Dak Lak province. HHG members are often determined on the agreement of all members, and they mainly come from the same ethnic group, with common interests and/or kinship and live together closely.

These results also show that the HHGs have been able to manage their forest successfully. In some cases, the outcome of the HHG models are even better than that of the VFM models, as at Cai village (in Hoa Binh province) and at Village C (in Lam Dong province). The derived forest benefit per household is significant and the homogeneity of HHG members in terms of kinship and interest are key factors in reducing transaction costs. It also provides for a higher capacity in rule monitoring and enforcement among HHG members. In practice, despite the fact that the HHG model is not legally recognized by law, it is relatively common in various regions in Vietnam. In some provinces, including Hoa Binh, Thanh Hoa, Dak Lak, and Lam Dong, land use certificates have even been granted for HHG models on a trial basis.

Adaptive Governance Structure in CFM

Both VFM and HHG structures have a long tradition in Vietnam and have been used for common village purposes (such as watershed protection, grazing, and sacred areas) for generations. However, during the period of state forest management (1945-1990), communal forest management models were weakened and abandoned. Since the economic reforms in the 1990s, these earlier models have been revived.

In the last two decades, a large number of VFM models have been formally set up through various community forestry projects, whereas the formation of HHG models is more diverse and de facto, reflecting a process of self-adjustment to the local conditions:

- Traditionally, in places where the village population is dispersed, several households (normally those of the same kinship, living closely) form a group to protect and use the nearby forest. This form is found in villages Cham A and Cham B (in Dak Lak), and Villages 1 and 4 (in Lam Dong province)
- HHG may be formed through a process of transformation from VFM. At first a communal forest was managed under VFM. But after a period of time, local people realized that VFM was not appropriate and adjusted the structure by dividing the village population into several groups, each group responsible for managing one or more patches of forest. This is the case in Yen Thang commune in Thanh Hoa province.
- HHG may also be set up by a transformation from individual household management. Through the Forest Land Allocation (FLA) program under Decree 02, many individual households received areas of forest. In some places where forests were too far from home or individual households had insufficient labor for patrolling them, some households jointly formed a HHG to manage their forest. Examples of this are from Cai and Dinh villages of Hoa Binh province.

The above indicates that local governance structures in a village at a particular time reflect a stage in an evolutionary process, and adaptive changes to communal forest resource management. It is therefore inappropriate to say which model of forest management, VFM or HHG, is the best for all CFM. In other words, governance structures do not only reflect the specific characteristics of the community and forest resources but also are the result of a process of self-adjustment and adaptation in forest management.

Conclusions and Recommendations

The governance structure for communal forest management in Vietnam is diverse and includes both the VFM model and the HHG model. The existence of a CFM governance structure is a result of development in forest management, and it reflects the current characteristics of a local community and its forest resources. It is not unique and static but rather flexible, as it is the outcome of a process of self-learning and adjustment. In many villages, the existence of HHG structure is a reality and has been accepted by both local communities and even local authorities. It is considered a locally adaptive governance arrangement, resulting from a process of transformation from VFM or individual households. In many places, the HHG model seems to be successful, especially where social composition and forest resources are rather heterogeneous. However, this governance structure is still not legally recognized in Vietnam, which may make it difficult to implement HHG in the field. The discussion yields the following implications:

- HHG model needs to be officially recognized in the legal framework for community forest management for effective policy and implementation.
- HHG governance structure should be considered an option along with VFM for forest management in community forest programs and projects as it is also able to manage forest in a sustainable way.
- Local governance structures and forest management experience should be paid adequate respect. They reflect the ability of local communities to adapt and adjust to local conditions. CFM models should only be established after careful consideration of the historical development of forestland management at each locality. Most importantly, FLA should not impose any pre-determined model of forest management. Instead, it should create an open space for local level negotiation and choice over forest governance structure.



9. Remaining Issues and the Way Forward

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Although there are good reasons to promote community forest management, there are critical issues that the Government of Vietnam has to address through further action at the policy and implementation levels. This section outlines the key remaining issues for the development of CFM in Vietnam, building on the analyses contained in this document. For each issue, different options the Government might undertake are also discussed, followed by recommendations for the way forward.

Introduction

The analyses contained in this booklet demonstrate that the GoV has created strong foundations for the development of community forest management through forestland allocation. The transfer of tenure rights to local communities is a critical and necessary precondition for local communities to manage forests sustainably, derive benefits from them and participate in democratic decision-making while developing their own customary practices of forest management.

At the same time, the analyses also show that tenure rights are not enough. The transfer of tenure leads to desirable environmental, economic, political, and cultural outcomes only if local communities can realize the rights given to them in legislation. For example, tenure transfers have little meaning if forest regulations severely restrict the people's rights on the ground, or if tenure legislation does not recognize the particular significance of ethnic minority rights, as indicated by the analyses presented earlier. In addition, the rising significance of new policy frameworks, such as PFES and REDD, requires innovative approaches to linking communities with new forms of forest governance. Similarly, the need for community participation in the management of protected areas and discretionary decision-making over forms of forest governance are important considerations.

The key lesson is that tenure transfers possess little value to people if they do not result in real rights. Legal rights do not translate into real rights if forest regulations emphasize protection obligations over rights to forest management. Legal rights do not translate into real rights if local authorities and communities do not have the capacity to implement and adapt legal stipulations. Real rights do not exist if tenure transfers do not enable local people to derive economic benefits from forests due to their lack of access to forest product markets and forest ecosystem services.

In this concluding chapter, we identify key remaining issues for CFM in Vietnam. We prioritize five issues and suggest ways to address them, with five key recommendations for the promotion of CFM in Vietnam.

Issue 1:

Revise procedures for forest management planning and benefit-sharing

It is widely recognized that existing regulations on management planning and benefit-sharing have been virtually impossible to implement in practice (Wode and Bao Huy 2009). For example, experience from community logging pilots demonstrates the difficulties encountered by local communities when they want to harvest and sell timber from forests allocated to them. More importantly, reliance on uniform quotas ignores spatial and temporal variations in the significance of forests to local communities and wider society. Forests are an important source of timber only in some regions and at certain times. In others, they assume much more important functions as sources of food or for other uses.

The GoV has three broad options in its efforts to improve the sharing of benefits from forests:

- A. Simplify the procedures for management planning and benefit-sharing.
- B. Allow local communities and authorities to negotiate management plans and distribution of benefits.
- C. Facilitate negotiations between local communities and authorities within national safeguards.

Option A seeks to improve the existing approach of centrally-defined management prescriptions and harvest quotas. It involves simplified procedures for the approval of management plans, timber harvests, and timber sales by communities (Wode and Bao Huy 2009). Nevertheless, this option would continue to rely on the specification of national or provincial quotas for the sharing of benefits, including the volume of timber available for harvest, the proportion of revenues from logging retained by communities, the share of forestland that can be used for agricultural production, etc. The advantage of such an approach would be improved clarity of quotas and increased ability to hold local authorities accountable to nationally or provincially defined quotas. Yet it also possesses a critical disadvantage: it fails to recognize spatial and temporal variations in the significance of different outputs from community forestry.

Option B would fully devolve decisions over forest management and benefit distribution to local communities and authorities. For example, district People's Committees could negotiate forest management plans and benefit-sharing arrangements with local communities every five years, plans which would specify the volume of timber to be harvested and the distribution of generated revenues, the areas of forest to be conserved, the area of forest available for potential conversion, etc. The advantage of this option is the possibility of adapting forest management and benefit sharing to local conditions. Yet there are also at least two critical disadvantages: first, local communities and authorities may not recognize the ecological significance of local forests to wider society and humanity, and second, communities may find themselves in a relatively weak bargaining position, opening up unprecedented possibilities for elite capture or coercive forest protection.

Option C seeks to combine the advantages of the first two options. Such a benefit-sharing policy would facilitate negotiation of forest management and benefit-sharing with local authorities, as in option A. Yet it would also require local communities and authorities to adhere to framework conditions set by the national government. These conditions would include environmental safeguards, such as the conservation of a minimum proportion of allocated forest and of dense vegetation along water courses. The conditions would also include social safeguards, such as the conduct of public consultations and availability of legal recourse to avoid elite capture, and the requirement to ensure a minimum level of livelihood to avoid coercive forest protection (Box 17).

Box 17: Making benefit-sharing more adaptive to local conditions

How can the GoV avoid situations such as the one encountered in Bu and Que villages of Nghe An province? There, FLA led to the enforcement of forest protection regulations, forcing villagers to abandon rice swiddens and reducing their food security. A negotiated approach to benefit-sharing would allow the villagers to specify suitable areas for rice swiddening on the allocated forestland in negotiation with local authorities. They could conclude a management contract with the district People's Committee under which they commit to protect the most critical services provided by their forests to wider society, but can also continue to meet their own livelihood needs from the forests. Their ability to make ends meet would be enhanced significantly if Vietnam's forest law included social safeguards guaranteeing them a minimum level of subsistence.

Source: Nguyen *et al.*, Chapter 2.

Issue 2:

Make communities partners in the upcoming PFES and REDD+ programs

Local communities can be the partners required by Vietnam's new approach to sustainable forest management. The rationale behind PFES and REDD+ is no longer that forests are national assets to be managed directly by the state. Instead, forest ecosystems are regarded as providing a variety of services to multiple users, and local forest managers are considered the providers of such services. Forest managers are entitled to receive financial rewards for providing forest ecosystem services base on actual performance. The new rationale in forest management, therefore, is one of partnership between local forest managers as providers of ecosystem services and the beneficiaries of these services, with the state as a facilitator of exchanges between the two.

The GoV has three broad options to make local communities partners in the upcoming PFES and REDD+ Programs:

- A. Roll out large-scale, centralized programs on PFES and REDD+.
- B. Introduce new procedures for monitoring and performance assessment in centralized government programs.
- C. Enable voluntary, performance-based contracts on the provision of forest ecosystem services and carbon capture.

Option A would draw on the model employed for the implementation of large-scale forestry programs in the past, in particular the 661 Program. The central government would define the eligibility criteria for local communities to implement PFES or REDD+ projects, the level of payments made under such projects, and the forest management practices required from communities in return. Vietnam's forest administration would be very capable of implementing this option given its capacity at central, provincial and local levels. Yet, on the ground results would be highly uncertain. Experience from the 661 Program demonstrates the limited performance of such a centralized approach. In addition, such an approach may not target the available PFES and REDD+ finance to the areas with the highest potential for the generation of forest ecosystem services and carbon capture (UN-REDD and MARD 2010).

Option B seeks to address the limited performance of past central government programs in the forestry sector through new procedures for monitoring and performance assessment. A critical step would be to put different state agencies in charge of project implementation, on the one hand, and monitoring and assessment, on the other. Such a separation of functions would remove one of the key institutional limitations of the 661 Program (UN-REDD 2010). PFES and REDD+ projects could be implemented by, for example, commune People's Committees but evaluated by district-level Forest Protection Units. Nonetheless, this approach would remain firmly wedded to the wider centralized approach of the past, lacking the required responsiveness to local conditions, needs, and priorities.

Option C proposes a new approach to the implementation of forestry programs based on voluntary contracts (UN-REDD and MARD 2010). Local communities would negotiate environmental service contracts with district-level FPDFs, under which they define the required performance in forest management and associated rewards. The FPDFs would act as an intermediary for various kinds of service beneficiaries, such as water companies, tourist enterprises, and carbon brokers in the voluntary offset markets as well as the national REDD+ Program. The performance levels on the table for negotiation would lie within the confines set by the forest management planning and benefit-sharing regulations discussed above, particularly the environmental and social safeguards put in place to protect essential broad and local interests in forests. The available rewards may be monetary, but also include technical extension and other support provided by state agencies, to be decided in the contract negotiations. The contracts would depend on the development of simple procedures for registering communities as legal entities (e.g. under the Law on Cooperatives).

Option C would be able to draw on the new forms of partnership developed by local authorities and communities that have been developed on a pilot basis and involve binding contracts with entire villages. For example, various projects funded by the German Bank for Reconstruction (KfW) have employed contracts to pay local communities for reforestation efforts, contracts made between local government agencies, on the one hand, and individual households or village collectives, on the other (Box 18). Another example comes from the PFES experiment in Lam Dong, where local communities receive their payment through individual contracts with forest management boards but have collectively saved the payments and agreed on the use of the money (Box 18& 19, Hess and To). Such contracts demonstrate how village collectives can join with local authorities in mutually beneficial partnerships, which are radically different from hierarchical relationships of the past.

Box 18: How village collectives can be partners with local governments

The provincial authorities of Quang Ngai and Binh Dinh have developed an innovative approach to community forestry that could easily serve as the foundations for wider partnerships between village collectives. With support by Kreditanstalt für Wiederaufbau (KfW), they have transferred tenure rights to village collectives, facilitated the formulation and establishment of village forest protection and development boards, assisted the development of village forest management plans, and provided technical assistance to community logging. The communities manage financial transactions through a collective community savings account with the Bank for Social Policies. They then have all the institutional preconditions in place for participating in forest management as equal partners.

Source: UN-REDD and MARD 2010.

Box 19: How local communities can benefit from PFES

Hess and To (Chapter 4) identify institutional preconditions for effective implementation of Vietnam's upcoming PFES program. The authors argue that certain institutional changes are required to allow local communities to participate in the PFES program in a manner that maximizes the provision of forest ecosystem services. Above all, horizontal linkages between communities, forest protection and development funds (FPDFs), and service beneficiaries need to be strengthened to match demand for ecosystem services with potential supply. The strengthening of horizontal linkages will require further decentralization in Vietnam's forestry sector, empowering provincial FPDFs to directly facilitate agreements and transactions between service suppliers and beneficiaries.

Source: Hess and To, Chapter 4.

Issue 3:

Expand forest land allocation to local communities

Even though the GoV has already allocated some 26% of total forest area to local communities, including households, household groups and village collectives (Figure 1), there is significant scope for the expansion of forestland allocation to village collectives, household groups and individual households. Moreover, the GoV has stated its commitment to expand the allocation of forestland to local communities (MARD 2007), which comes in the wake of encouraging results from local pilots with collective land titling to household groups and entire village collectives since the late 1990s. It builds on the endorsement of collective land titling and forest management in the 2003 Land Law and 2004 Forest Protection and Development Law and opens up unprecedented possibilities for collective allocation of forests to communities.

An obvious place to start is the forest temporarily under the custody of People's Committees, which accounted for over 18% of the forest area at the end of 2009 (Figure 1). It remains unclear, however, how the GoV will allocate additional forest to local communities.

The GoV has two basic options for the allocation of additional forest to local communities.

- A. Refine the existing top-down approach to forestland allocation.
- B. Develop and apply responsive allocation procedures.

Under Option A, MARD would define targets or criteria to guide the allocation of forest to Forest Companies and PAMBs, on the one hand, and to individual households, household groups and village collectives, on the other (Wode and Bao Huy 2009). This approach is in line with regular government operations and the capacities of local authorities but it may conflict with existing forest use and local people's priorities.

Option B seeks to accommodate existing forest use and local priorities through a responsive approach (Box 20). Under this alternative approach, district authorities would invite local people, Forest Companies, and PAMBs to submit applications for the allocation of specific forestland areas. The authorities would consider these applications in a transparent consultation process with affected parties and mediate any emerging disputes before issuing tenure certificates. Both local authorities and communities would require support in the process, as they generally lack the required organizational skills. In addition, national policy-makers would need to put procedural and substantive safeguards in place to avoid elite capture.

Box 20: Responsive land titling in the Philippines

Experience from the Philippines shows how Vietnam could apply a responsive approach to FLA. In the Philippines, any indigenous community can take the initiative to apply to the government for the recognition of their customary land under the Indigenous Peoples Rights Act passed in 1997. Communities have to prepare a set of documents, for which they usually receive technical and legal support from a specialized civil society organization. The application needs to demonstrate that the community has used the land on a customary basis, is considered the legitimate user, and has an effective plan for the management of the land. The National Commission on Indigenous Peoples, in turn, reviews the application and then decides about the titling of the land through a Certificate of Ancestral Domain (or Land) Title. To date, the Commission has issued a total of 251 titles for a total area of 1.6 million ha.

Source: Luong and Genotiva, Chapter 3.

Issue 4: Regulate local forest governance

As the GoV developed a regulatory framework on local forest governance, it may have stifled space for local adaptations and innovations. Local people can receive tenure rights to forests individually, in groups, and in village collectives, yet they have not been granted any governance powers to make their own rules and organizational arrangements in forest management. The existing laws and regulations on tenure rights, village forest protection and development regulations, forest management plans, etc. provide very few opportunities for local communities to develop governance arrangements that match local conditions, rules, and practices. Consequently, local forest governance consequently is often ineffective or rife with conflicts between local communities and authorities, between one village and another, or within villages.

The GoV has three broad options on local forest governance:

- A. Retain the current one-size-fits-all approach under which local communities may receive tenure rights but no governance powers.
- B. Grant autonomy to local communities for developing their own governance arrangements.
- C. Introduce procedures for the negotiation of shared forest governance between communities and local authorities.

As noted above on forestland allocation, option A matches the regular mode of government operations and the existing capacities of forest officers. Local authorities merely implement the stipulations handed down to them by national and provincial agencies. The disadvantage of the current one-size-fits-all approach is that local communities and authorities do not possess any formal powers to adapt national regulations to local circumstances.

Under option B, the GoV would abandon any attempt to regulate local forest governance. Local communities would be empowered to develop their own forest regulations within certain minimum procedural requirements defined by the central government. The advantage of this option is that it would alleviate the heavy demands put on local forest protection officers, as well as providing legal security for community-based forest regulations already practiced in many villages. Yet the disadvantage would be significant. Local power holders may easily abuse the maneuvering space to twist forest regulations in their favor. Similarly, local groups may try to exclude other forest users from customary uses of the forest, thereby causing conflict or detrimental effects on the others' livelihoods.

Option C would endow local communities and authorities with formal powers to negotiate shared forest governance. Local communities could collectively decide how they allocate forestland among their members, what kinds of forest uses they allow, what duties their members have in forest protection, and how they resolve disputes between members. Together with local authorities, they would develop rules on how outsiders can use their forests, how violations by outsiders against forest protection and management regulations are prosecuted, and how conflicts between villagers and outsiders are dealt with. In this way, local authorities would back up communities in their dealings with outsiders and simultaneously ensure that communities comply with certain procedural requirements to avoid elite capture and ensure fair and transparent decision-making. The central government would give up the attempt to micro-regulate local forest management and instead issue a set of minimum environmental and social safeguards (Box 21).

Box 21: The benefits of negotiated forest governance

Efforts by the GoV to establish forest governance in a top-down manner have repeatedly faltered, leading to deforestation, depriving local people of a key source of livelihood, and causing conflict between government agencies and local communities. In Tram Chim National Park, for example, the exclusion of local communities from the use of park resources and decisions about resource management caused strong local resistance, reflected in a high incidence of forest fires. The resistance disappeared quickly, however, when the park administration allowed some local uses and involved people in decision-making. In Hoa Binh, forestland allocation was implemented in a bureaucratic manner, leaving many local people dissatisfied with the chosen form of forest management. A few years later, individual households began to team up into groups, and village communities separated the collectively allocated forest into smaller parcels for group management. In both instances, forest management would have been more effective from the outset if the responsible government units had negotiated forest governance with local communities instead of imposing predefined models from the top down.

Source: Do *et al.* and Lai and Vij, Chapters 7 and 8.

Issue 5:

Provide support to local communities managing forests

The GoV has expended significant efforts to develop an organizational structure to support local forest managers. District-level authorities typically include a number of professional foresters in the Forest Protection Unit and possibly Extension Center, and many commune-level People's Committees include a staff member who has received training in forestry. Nonetheless, communities managing forests continue to experience significant problems accessing technical and organizational support, as much of the government's capacity remains concentrated in Forest Companies and PAMBs.

The GoV has two options in its efforts to increase external support for local communities managing forests:

- A. Enhance the capacities of district and commune-level authorities.
- B. Provide an enabling legal and financial framework for the operation of civil society organizations (CSOs) in the forest sector.

Under option A, MARD would seek to either transfer technical staff from Forest Companies and PAMBs to district-level authorities and commune-level People's Committees or to hire additional staff for these units. This option fits the past emphasis on state forest management and the widespread conviction among government officials that the state should continue to assume a developmental role in forestry. Its limitations, however, lie with the bureaucratic procedures and top-down culture that often prevent these units from offering effective support to local forest managers.

Option B would build on insights from other countries, such as India, Nepal, the Philippines, and Thailand, where CSOs provide key support for local forest managers. CSOs may not always possess the strongest technical knowledge about forest management, yet they often hold a comparative advantage over governmental agencies through their organizational flexibility and ability to respond to local communities' requirements and aspirations (Box 22). They have also come to assume an important role in representing communities' needs and wants with governmental organizations at local and national levels. At the same time, their capacity to support local forest managers would depend on the availability of financial support, such as small grants programs inviting joint applications by communities and CSOs. Mutually beneficial relations between local communities and CSOs would also benefit from an enabling regulatory framework.

Box 22: The Center for Sustainable Development of Mountainous Areas (CSDM)

A recent video provides evidence for the role already played by CSOs in community forestry as well as the potential advantages of a more proactive approach by the GoV in facilitating CSOs' support to local communities managing forests in Vietnam. The video documents the work of the CSDM on community forestry at local, national and global levels. Locally, CSDM has shown the capacity to respond to demands by villagers in Lang Son related to the allocation and management of local forests, demands previously unheeded by the responsible government agencies. Nationally, CSDM has prepared information materials for local communities about the aims and modalities of REDD+. At the global level, CSDM's director has participated in the 2010 Conference of Parties to the United Nations Framework Convention on Climate Change, representing the interests of Vietnam's forest people.

Source: The authors.

Conclusions and policy recommendations

Based on the assessment of available options, the authors have five strategic recommendations for the promotion of community forestry in Vietnam:

1. Facilitate negotiations over forest management planning and benefit-sharing between local communities and authorities within national safeguards.
2. Enable voluntary, performance-based contracts for the provision of forest ecosystem services and carbon capture under the upcoming national PFES and REDD+ Programs.
3. Develop and apply responsive procedures for the expansion of FLA to local communities.
4. Introduce procedures for the negotiation of shared forest governance between communities and local authorities.
5. Provide an enabling legal and financial framework for the operation of CSOs in the forest sector.

If implemented, these actions would enable local communities to manage forests in more effective ways, particularly in the uplands. A larger number of communities would receive forest tenure rights through procedures responsive to their needs and priorities. They would be in a better position to translate legal rights into effective rights on the ground as they negotiate shared forest governance with local authorities. They would also be better able to derive tangible benefits from their tenure rights through the negotiation of forest management plans and benefit-sharing agreements with local authorities and ecosystem service contracts with district-level FPDFs under the national PFES and REDD+ Programs. In addition, local communities could tap into a new source of support, as Vietnam's forest law would facilitate CSOs to assist local communities in their efforts to acquire effective tenure rights and translate those into tangible benefits.

Implementing the five strategic recommendations would enable community forestry to make crucial contributions to Vietnam's development. Local communities managing forests would not only help to improve forest management, but also derive higher benefits from forests to contribute to poverty alleviation. Their enhanced participation in forest governance would match the goals of strengthening grassroots democracy, recognizing distinct cultural traditions, and complying with the GoV's commitments to transnational legal norms.

The five strategic recommendations necessitate various kinds of initiatives from Vietnam's central government, MARD, international donors, provincial governments, and CSOs.

Piloting of improved procedures: Provincial governments and CSOs need to develop and test improved procedures for flexible management planning and benefit-sharing, environmental service contracts between village collectives and district-level FPDFs under PFES and REDD+, and shared local forest governance with support by international donors.

Policy-making: The central government and MARD need to develop enabling legal frameworks for CSOs' participation in the forest sector, for local negotiations over forest management planning and benefit-sharing, and for service contracts between village collectives and FPDFs under the PFES and REDD+ Programs.

Policy implementation: MARD and international donors need to reinvigorate FLA to local communities and offer financial support to CSOs assisting local communities in forest management.

Policy monitoring and evaluation: MARD and CSOs need to collaborate in a systematic and iterative learning process about the development of community forest management on the ground. This learning process may begin with a collaborate assessment of the community forestry initiatives implemented under MARD's Community Forestry Pilot Program funded under the Trust Fund for Forests. It would also need to consider existing experience with the operation of CSOs in the forest sector. Once the national PFES and REDD+ Programs are operational, program implementation would need to be monitored for the ability of local communities to participate on a level playing field together with state-owned Forest Companies and PAMBs.

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