

WHAT ARE THE EFFECTS OF DEVOLUTION ON LOCAL PROPERTY RIGHTS? A CASE STUDY IN CENTRAL HIGHLANDS OF VIETNAM

Tran Ngoc Thanh, Humboldt University of Berlin

Abstract

Rapid forest degradation and the failure of forest resource management by state forest agencies has pushed the local authorities in Dak Lak province seeking for an urgent solution to stop deforestation. Devolution of forest management, in which authority and responsibility for forest resources management are handed over to local users, has emerged as a feasible solution. Although devolution is seen as a radical innovative policy on forest and land resources and being strongly supported by the central government, expected outcomes of devolution are not easy to obtain, and translating devolution policies (the legal rights) into the rights-in-use is not an easy job. Factors hindering the legal property rights are poorly understood.

This study seeks to understand the effects of devolution on local forest property right changes. In particular, it seeks for an explanation why legal property rights do not work in practice after devolution. The study suggests that property right changes are complicated processes depending on various factors. Although devolution is seen as crucial innovative solution for management of natural resources, it does not automatically become working rights. The local rights often remain their dominant roles after devolution, shaping local forest management practices. The study suggests that understanding property rights request sophisticated visions

This study is based on a three year research project on assessing impacts of devolution on local forest institutional change. This study has been conducted in two ethnic minority villages of the central highlands of Vietnam.

1) Introduction

The results of rapid forest degradation have created adverse impacts on local environment leading to instability of social economic situation in the local rural society. According to the provincial forest inventory report, forest areas are lost around 23,000 hectares per year during the last five year (DARD, 2000). This consequence has pushed the authorities in Dak Lak province of Vietnam seeking for an urgent solution to stop forest degradation. Among various policies launched, there has been a rising interest in transferring forest resource management responsibility from state forest agencies over to the local communities. By empowering authority to local villagers, it is assumed that local people would change their local forest institutions, and devolution policies would be adopted in practice to improve weak status of forest management. Contrasting to such an expectation, local forest management has not been improved yet and forest resources are being continuously declined after devolution.

This study seeks to understand the effects of devolution on local forest property right changes. In particular, it seeks for an explanation why legal property rights do not work in practice after devolution. The study suggests that property right changes are complicated processes depending on various factors. Although devolution is seen as crucial innovative solution for management of natural resources, it does not automatically become working rights. The local rights often remain their dominant roles after devolution, shaping local forest management practices according to their ways. The study suggests that understanding property rights request sophisticated visions

This paper proceeds as follow: after introductory part, a brief discussion of literature including conceptual framework, research design and background about devolution program in Dak Lak province of Vietnam is provided. The following sections presents the research findings: the patterns of changes in local forest property rights after devolution; the gaps between legal and local rights; and the obstacles hindering the legal rights translating into rights-in-use. The paper concludes with recommendations for devolution implication.

2) The literatures

• Concepts of devolution and property rights

What are property rights? This paper uses the term property rights refer to social relations over forest resources between actors. Being human devise constraints, property rights govern who can do what with resources, they specify the claims and related obligations of different actors (including individuals, groups or community) to the benefits of a resources (Meizen-Dick and Gregorio, 2004). Because property rights define social relation, they can be *de facto* and *de jure* rights. Consequently, they can originate from government laws (de jure rights) or from local community (de facto rights) to regulate operations related to forest resources. For example, although the government claims forest resource are a state property managed by the state in the whole country, each local community has their own local traditional laws regulating property rights according to different ethnic traditions. The distinction between *de jure* and *de facto* is important to understand the interaction between ethnic minority groups in the central highlands and forest resource relations. Even *de facto* and *de jure* rights may co-exist in a plot of forest. Beside the state forestry regulations, the ethnic minority people in the study area also claim the local rights in the same developed forest areas. The local rights shape day-to-day activities of community members in relation to forests even though these rights have not been recognized by the state. The local property rights may complement or conflict with the state laws.

Property rights consist of bundle of rights. To be simple to describe property rights, this paper uses the classification developed by Schlager and Ostrom (1992), but modifies it a little to suit the local conditions in the study villages.

Access	The right to enter a defined physical property (e.g., the right to enter allocated forest, or to walk on a piece of forestland)
Withdrawal	The right to obtain the products of forest (e.g., the right to cut a tree, the right to collect NTFPs)
Management	The right to transform the resource by making improvements (e.g., right to convert forestland into shifting cultivation land, right to plant trees in forest, right to enrich forest)
Exclusion	The right to determine who will have an access right, who is allowed to cut trees (e.g., right to stop violators from cutting trees without permission)
Alienation	The right to transfer, exchange or mortgage the above rights (e.g., right to exchange land use rights, right to inherit land use right, right to use forestland certificate as mortgage)

Source: adapted from (Schlager and Ostrom, 1992)

Property rights may be distinguished by actors, goods and village. For example, the rights of cutting tree may be handed over to forest recipients, but non-forest recipients do not have. Non-timber forest products could be harvested by every villager, but rights to felling of timber is hold by specific individuals. Timber trees may be allowed to cut by villagers of this village, but it is not allowed for villagers of neighboring villages.

Understanding property rights and determining indicators of property right changes are big challenges. Activities of local villagers over forest resources are easy to observe and measure, but property rights are invisible to direct observation and they are not easy to measure (Ostrom, 1992). To evaluate the level and type of property right change (or not change) is a big challenge requesting direct interviews of different actors and sophisticated observations. For example, a villager exploits forest lands after devolution which is induced by local property rights change, but it may be just a usual action because his/or her family has a new additional member born, then he/she needs more land for that reason. It is more difficult for any analyst when studying in ethnic minority people, who use un-written form to preserve their property rights (Ngo Duc Think, 2002). This paper, therefore, uses both indicators of people's perception and their action to understand whether property rights change or do not change. It does so because property right change (if they change) firstly impinges on the shared understanding of individuals, it then influences the strategies local people adopt, the

aggregation of changed individual strategies finally lead to changed property rights (Kiser and Ostrom, 2000).

Regarding to devolution, it is often not easy to obtain desirable objectives. There are different causes leading to this problem. Some of the most common one mentioned is handing rights for people managing forest resources without corresponding rights (Meinzen-Dick and Knox, 1999). There are many cases devolution policies ignore or even confront with local institutions (Shackleton and Campbell, 2001). As a consequence of devolution with non-commensurate rights, local villagers often do not have possibility to get expected benefits. When the local users do not ensure that they could gain potential benefits derived from forest protection activities, local people will have no motivation to change and to manage devolved forest resources (Gibson, 1995). Alternatively, local people even when facing uncertainty on forest tenure, they could quickly cut trees to draw out immediate benefits, or exploit devolved forests to claim property rights by using local property rights.

What theories could be used to examine property right change? Through different theories of institutional changes developed by various famous scholars such as (Williamson, 1985); (North, 1990); (Ostrom, 1990); (Knight, 1992); (Jentoft, 2004) can be employed to explain property right change, the Ostrom's institutional choice theory is emergent as the most influential and theoretically powerful one (Klooster, 2000). According to Ostrom, institutional choice rests on the notion of rational individual. It implies an individual choice in any particular situation will depend on how individual learns about, view and weights the benefits and costs of actions. Individual choice will support to the alternative of institutional change that expected benefits exceed the costs of transforming and maintaining the proposed rules (Ostrom, 1990). The relation between costs-benefits will determine direction of rational choice.

It should be noted that other famous scholars use various ways to explain institutional changes. Institutional changes may originate from either the social, economic and political effects or specific mechanisms which make institutions change.

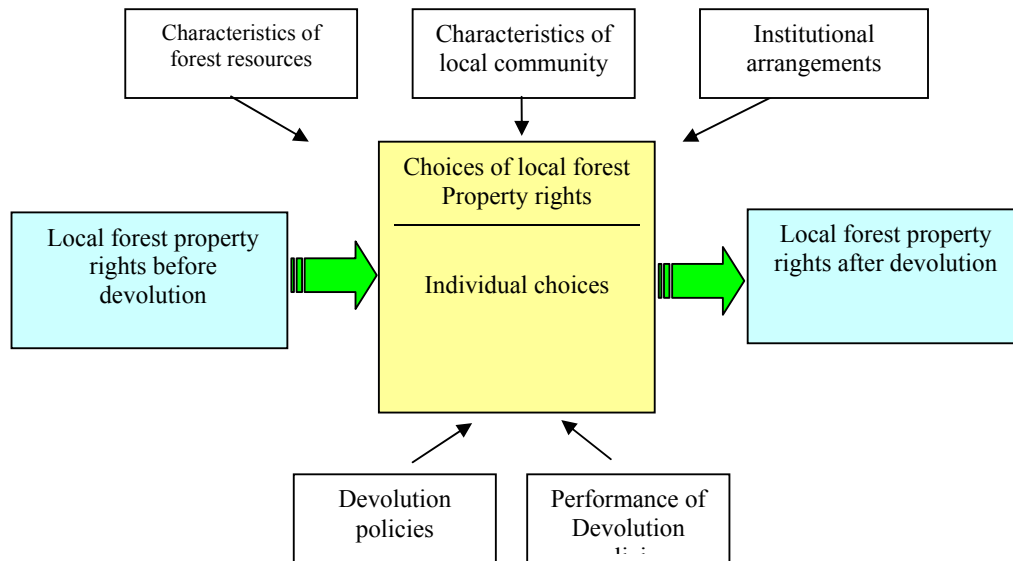
- **Analytical framework**

To investigate the effects of devolution on property right change, this study proposes a conceptual framework that is constructed based on adaptation of the institutional analysis of development (IAD) framework (Figure 1).

Theoretically, there are three important factors assumed influencing institutional choices on

property rights: attributes of resources, attributes of local community and institutional arrangements. To suit with local conditions and the purpose of this study concerning assessment of devolution impacts, I add two factors: devolution policies and performance of devolution into consideration. These factors are also presumed influencing local people's incentives related to forest resources.

Figure 1: Analytical framework to analyze local forest institutions



Source: Adapted from the IAD framework (Ostrom, 1994)

Firstly, attributes of resources may affect benefits-costs of institutional change through different aspects. For example, if forest resources are very poor, so resource unit is very limited to local villagers, as a result local users do not expect to gain immediate benefits in a short run. As a consequence, there are few reasons for local users, who need urgent forest products for their livelihoods today to invest costly time and their rare capital to protect forest resources (Ostrom, 1999). If forest resources of devolved areas are located in complex topography, difficult to exploit (physical aspects), while forests located in other places that are very flat, rich and redundant, there is no reason for local users to invest their costly investment to expect benefits from such forests.

Secondly, the attributes of local users also affect cost-benefits of institutional choice through many ways: dependence of local users on forests, common understanding of local users on forest resources, variance of user's interests, prior experiences on organizing, and so on. For example, if local users do not depend on forest for livelihoods and forests resources are not

salient to local users, there is no reason for local users to invest in managing forests. If villagers do not have common understanding about problem of forest resources, it is very difficult to have common agreement that they should change or improve the existing rules to protect forest better. If local users lack of trust each other due to absence of social capital and reciprocity in using forest resources, organizing management activities are often costly (Ostrom, 1999).

Thirdly, institutional arrangements, which are often seen as system of monitoring, enforcement and conflict resolution means employed by individuals for governing forest resource use in the community, also affect costs-benefits of institutional choice. For example, when institutional arrangements are well organized, violation sanction is strictly implemented, so people are sure that violators breaking the rules will face problem of sanction. As consequence of good institutional arrangement, people will strictly obey local institutions. Consequently, the costs for monitoring and enforcement are less costly.

Devolution can influence to property right changes through costs-benefits of institutional changes. Because devolution policies handed rights over forest resources to local people, it can define level and distribution of benefits from devolved forests, it affects incentives local users for undertaking forest management. Together with devolution policies, performance of devolution or implementation approach can contribute to the costs of transformation. For example, devolution often ignores traditional structures and existing institutions, which are important politically and administratively for forest resource management (Shackleton and Campbell, 2001). Ignorance of local existing institutions either can create conflicts or do not make use of advantages of traditional rights to reduce costs of forest management.

3) Research design and background

- **Research design**

The study has been conducted in two villages using in-deep case studies. Each village, the field works sought information about property rights of forest resources before and after devolution. Although the study focuses on property rights at village level (we called local level), information of household level is also collected. At the village level, semi-structure interviews and open-ended interviews with almost key informants in the villages have provided core information about property rights. In addition to the key informant interviews, group discussions also helped to gain useful information about the study villages such as land use, practices of forest appropriation, and history of forest management. There were

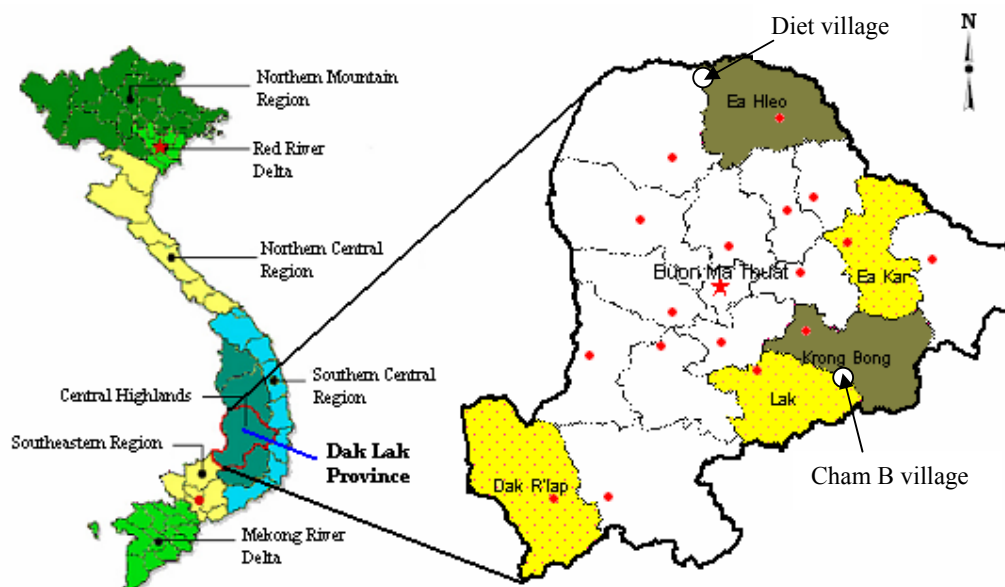
about 2-5 group-discussions organized per village to observe and collect such information. Forest walks and direct observations helped to understand daily real works of upland people in the forest as well as their culture over forest resources that are very crucial to understand property rights.

The total number of households conducted interviews is 97 households. It is estimated around 95% random sample households formed the information at the household level for the study. Outside field trips, I also collected archival and documents from forestry departments at the national and provincial levels. In addition, selected papers from the forest allocation project contributed to understand the process of devolution. Literature reviews at the Humboldt University laid an important foundation for this study analysis.

- **Dak Lak province**

The research took place in Dak Lak province (Figure 2), where is well-known as a largest natural forest province, located in the central highlands in Vietnam. The province has 1,980,000 hectares of natural areas, of which approximately 1 million hectares (52% territory of the province) are classified as forest land (equivalent to 9% of forest areas of Vietnam) (Tran Ngoc Thanh, 2000).

Figure 2: Map of Dak Lak Province



Source: Dak Lak DARD and Vietnam Economic Information Network, with edition by Nguyen Quang Tan and the author

The province is characterized by diversity on ethnic minority groups, remaining strong traditional social structures and local institutions shaping activities to forest resources. There

are 1.8 million people belonging 44 different ethnic minority groups inhabiting in the province.

History of forest management in this province also makes it special to study. Like other developing countries, after reunification from the American war (1975), all forest resources were claimed state property. Because forests were seen as a significant source providing instant budget for infrastructure development and creating foreign exchange, 65% of forest areas are set up under management of state forest enterprises (SFEs) and other government agencies such as forest protection boards, army forces and local authorities. Although many local villagers of native ethnic minority groups are practicing shifting cultivation in forest areas, there is no individual property rights recognized as private ones.

- **Devolution program in Dak Lak province**

Devolution has been initiated in the province expecting two major objectives. Firstly, devolution is expected to stop deforestation by changing ethnic minority groups into the stewards of forests; Secondly, devolution expects to derive benefits from devolved forests for the local villagers. Because local people will obtain benefits, they expect to have incentives for forest protection.

Three forms of devolution have been applied consisting individual households, groups of households, and village communities. Up to the year 2002, a total areas of 16,199 hectares of forests has been allocated to local people in 15 villages of 5 districts, of which 5,139 ha was allocated to households, 5,280 ha to groups of households, and 5,779 ha to village communities.

Unlike other forest land allocation program in Vietnam, devolution issues legal use rights to forest recipients.

- Right to forest products (e.g. people can harvest 10 m³ for housing, collect NTFPs, and share 6% of timber harvesting when devolved forests reach logging mature status)
- Limited right to convert land use (e.g. people are allowed to convert 5% of devolved forest areas for agricultural land)
- Right to exclude (e.g. people can exclude non-recipients to withdraw forest product from devolved forests)
- Limited right of alienation (e.g. people can use land use right certificate as collateral to get loan from the banks, exchange with others, and inherit devolved forests for next generations)

- **Study villages**

Two villages with different characteristics were selected to conduct this study with the purpose to understand different effects of devolution on local people, and local forest property right change.

- Cham B village, located in Cu Dram commune – Krong Bong district, was selected as an example of a remote access village with abundant forest resources and fertile soil. Its habitants are almost E De, whose village was established in 1987 by separation from Cham A village (the original village) under a state re-settlement program. This village still remains strong community social structures and its history of land use has close relation to current property rights problem. The current population is 42 households with 278 persons. Up to today the local people of Cham A and Cham B maintain close ties and kinship relations. The villagers of Cham B received the forest in group. Each household cultivate 3 hectares of agricultural land on average.
- Diet village, is an example for villages with easy access. Its villagers are Ja Rai including 337 people in 57 households. The village was founded in 1973 under a settlement program by the old Saigon government. Recently, the village forest resources have become under pressure by illegal logging timber. Migration can be seen as other source of pressure. Forest resources and soil are poor. Cultivable land per household is only 1.5 hectares on average. Local villagers participated in FLA as individual households. The FLA program allocated to only 30% of the village's population.

4) Findings

This section presents different changes in property rights, focusing on differences between two periods (before and after devolution); differentiations between two study villages (Cham B and Diet); and the gaps between legal rights, local rights and practices. Following comparisons, the paper provides explanations how the various rights to the forest property change under impacts of devolution program. The last section explores underlying causes leading to the changes in local forest property rights.

Patterns of change

(a) Change in local rights before and after devolution

Like other upland communities in the Southeast Asia region, the local property rights of the

study villages show a great divergence and complexity. The evolution on local property rights under impacts of devolution is complex and dissimilar between two study villages.

Table 1: Change in local rights in Cham B village

Rights ¹	Before devolution			After devolution			
	A	B	C	A1	A2	B	C
Withdrawal timber	yes	yes	yes	no	yes	yes	no
Withdrawal NTFPs	yes	yes	yes	yes	yes	yes	yes
Management	yes	yes	no	no	yes	yes	no
Exclusion	yes	yes	no	no	yes	yes	no
Alienation	yes	yes	no	no	yes	yes	no

Table 2: Change in local rights in Diet village

Rights	Before devolution			After devolution				
	A	B	C	A1	A2	A3	B	C
Withdrawal timber	yes	yes	no	no	yes	yes	no	no
Withdrawal NTFPs	yes	yes	yes	yes	yes	yes	yes	yes
Management	yes	yes	no	no	yes	yes	no	no
Exclusion	yes	yes	no	no	yes	yes	no	no
Alienation	yes	yes	no	no	yes	yes	no	no

Notes: A = inhabitants of study village; A1 = non-recipients belonged to Kinh group; A2 = recipients; A3 = non-recipients belonged to ethnic minority people; B = ethnic minority people of neighboring villages; C = migrants

Source: field study

The information as presented in the above tables is integrated results of the interviews, including village leaders, key informants and direct observations by the researcher. Local property rights, both before and after devolution, display a complex reality and great differences depending on types of forest products, actors and villages. Property rights are embedded in different local histories, social, economic and forest conditions of the study villages. Under impacts of devolution policies, the changes in local property rights have various outcomes. While some actors win, others lost in the game of devolution. Some actors lost almost rights, but other lost several rights or remain the rights unchanged.

¹ This paper does not mention about the right of access as introduced in literature review due to the fact that every one hold the right of access in Vietnam. There is no change in right of access.

In Cham B (Table 1) before devolution the indigenous inhabitants of study village (Group A) hold the same rights as ethnic minority groups of neighboring villages (Group B), who are also ethnic minority group. Local people belonged to ethnic minority group do not change any rights after devolution. However, there were differences between ethnic minority groups and migrants (Group C), who have migrated from the delta regions and the northern provinces of Vietnam into the uplands during the last ten years. Although migrants do not belong to the native groups, migrants also had rights to collect NTFP and right to cut trees for housing and non-commercial purpose. Nevertheless, migrants did not have the rights of management and alienation. The findings reveal different changes in local property rights, distinguishing between indigenous ethnic minority groups and migrants.

In Cham B, after devolution there are four groups of people having connection to forest resources. The inhabitants in the study village, who have been selected to allocate devolved forests, are called forest recipients (A2), has five rights as presented above. Kinh people living in Cham B (group A1) consist of 4 households was not selected in devolution program, so this group does not have rights as forest recipients. Nevertheless, they have rights to collect NTFPs. Migrants (group C) are lost right of withdrawal timber. Different from migrants, ethnic minority group of neighboring village (Group B), who has close relationship and shared common history on forest use with Cham B village, still hold local rights as regulated by traditional laws. Although Group B was not selected in devolution program, it still has local rights to devolved forests such as clearing forests for shifting cultivation land as well as cutting trees.

In Buon Diet, local property rights also expose its complexity and different changes after devolution. However, the changes in Diet village are dissimilar to Cham B village. Before devolution, non-recipients belonged to Kinh group (group A1) and migrants (group C) had a sole right of collecting NTFPs, but they did not have right for cutting trees as indigenous local villagers. Different from migrants, ethnic minority people in study village and neighboring villages had the same local rights. After devolution, the indigenous inhabitants of the study village are divided into two groups: forest recipients (A2) and non-forest recipients (A3). Although having different names as introduced by devolution, the so-called forest recipients and non-forest recipients, the inhabitants of Diet village have the analogous rights to the forest property.

There is a difference between Diet villagers and ethnic minority people of neighboring villages after devolution. Ethnic minority groups of neighboring villages are distinguished

from ethnic minority people of Diet village. The local people in Diet village did not allow other ethnic minority groups holding the same local rights while before devolution, when the forests were still belonged to the state, ethnic minority groups had the same rights. After devolution, Diet villagers want to keep devolved forests for their own use and management. Local property rights of Diet villagers have been changed.

Although having many differences, both villages Diet and Cham B have a common character. The rights of alienation and exclusion only granted to ethnic minority groups. Migrants do not have such rights. The diversity of local property rights is also manifested when comparing different rights between two study villages (Diet and Cham B). For example, the inhabitants in Cham B village claimed that migrants have the right to withdrawal of timber and NTFPs. In contrast, the villagers of Diet village only asserted right of collecting NTFPs to migrants. Ethnic minority people of neighboring village in Cham B do not change their local rights after devolution, but their counterparts in Diet village do greatly. According to the findings as presented above, ethnic minority groups of neighboring villages in Diet village are no longer holding the rights to devolved forests after devolution. People in Diet village explained that each village has its own devolved forests separately. So each village should have its own property rights to cut trees or convert forests for shifting cultivation lands in certain areas. Before devolution, when the forests were belonging to state forest enterprises, people in Diet village did not distinguish such conditions with their neighbors. Interestingly, when forests are devolved to them, a separation is occurred in their perceptions.

(b) Changes in activities towards forest resources before and after devolution

Property rights are invisible and often very difficult to observe their changes. However, the changes in behaviors can provide good clues to explore the changes in property rights by looking at people's response in practice. This section is, therefore, devoted to investigate different actors behaving towards devolved forests. The inquiry is conducted before and after devolution as well as between two study villages.

Table 3: Comparing practical actions in devolved forest areas (Cham B village)

Actors ²	Action	Before devolution	After devolution	Compared two periods
Group A1	Cutting timber	no	no	no change
	Collecting NTFP	yes	yes	no change
	Clearing forest	no	no	no change
Group A2	Cutting timber	yes	yes	reduced
	Collecting NTFP	yes	yes	increased
	Clearing forest	yes	yes	increased
Group B	Cutting timber	no	no	no change
	Collecting NTFP	yes	yes	increased
	Clearing forest	no	yes	increased
Group C	Cutting timber	yes	yes	increased
	Collecting NTFP	yes	yes	no change
	Clearing forest	little	little	no change

Table 4: Compare practical actions in devolved forest areas (Diet village)

Actors	Action	Before devolution	After devolution	Compared two periods
Group A1	Cutting timber	yes	yes	increased
	Collecting NTFP	yes	yes	no change
	Clearing forest	little	no	reduced
Group A2	Cutting timber	yes	yes	increased
	Collecting NTFP	yes	yes	increased
	Clearing forest	little	little	no change
Group A3 & B ³	Cutting timber	yes	yes	increased
	Collecting NTFP	yes	yes	increased
	Clearing forest	little	no	reduced
Group C	Cutting timber	yes	yes	increased
	Collecting NTFP	yes	yes	no change
	Clearing forest	little	no	reduced

Notes: A1 = non-recipients belonged to Kinh group; A2 = recipients; A3 = non-recipients belonged to ethnic minority people; B = ethnic minority people of neighboring villages; C = migrants

² In Cham B, all ethnic minority people were allocated forest land. Consequently, there was no Group A3

³ Group A3 and B had similar actions towards devolved forests, thus I group them into one block for description.

Source: field study

Although practical activities of local people may not totally reflect accurate indicators of property right change, these activities can be used to demonstrate the changes or potential changes in property rights.

The information presented in the tables 3 & 4 indicates unlike changes of people's behaviors depending actors and villages. It is quite clear that actors have different actions to forest resources after devolution. The winners and losers have different responses to forest resources. For example in Cham B village, after devolution inhabitants of study village (Group A2), who are winners, continue to clear devolved forests for upland, but they reduce harvesting timber. Non-forest recipients (Group B) do not cut trees in devolved areas after devolution, but they strongly clear devolved forests in stead. Different from these groups, migrants (Group C) reduces their activities in clearing devolved forest, but they increase harvesting timber, however. In Cham B village, after devolution both forest recipients and non-forest recipients clear devolved forests more serious than before devolution. Contrasting to ethnic minority groups, clearing forests is not an emergent activity by migrants.

In Diet village, behaviors of actors are different from Cham B. Both forest recipients (Group A2) and non-forest recipients (Group A3) increase their operation focusing on harvesting timber and NTFPs. Clearing forest is not a problem in Diet village after devolution. Similarly, migrants (Group C) in Diet also increase their activities on timber felling. All actors in Diet village focus on cutting of timber leading to serious damage of timber volume in devolved forests in Diet village.

(c) The mismatch between local and legal property rights

The findings also indicate the huge gaps between the local and legal rights. Understanding this issue is very crucial because the gaps between the two systems can help to explain how the legal property rights work in practice.

Table 5: The gaps between local and legal rights in Cham B village

Rights	The legal property rights			The local property rights			
	A2	A1	B & C	A1	A2	B	C
Withdrawal timber	yes	no	no	no	yes	yes	no
Withdrawal NTFP	yes	no	no	yes	yes	yes	yes
Management	yes	no	no	no	yes	yes	no
Exclusion	yes	no	no	no	yes	yes	yes
Alienation	yes	no	no	no	yes	yes	no

Table 6: The gaps between local and legal rights in Diet village

Rights	The legal property rights			The local property rights				
	A2	A1, A3	B & C	A1	A2	A3	B	C
Withdrawal timber	yes	no	no	no	yes	yes	no	no
Withdrawal NTFP	yes	no	no	yes	yes	yes	yes	yes
Management	yes	no	no	no	yes	yes	no	no
Exclusion	yes	no	no	no	yes	yes	no	no
Alienation	yes	no	no	no	yes	yes	no	no

Notes: A1 = non-recipients belonged to Kinh group; A2 = recipients; A3 = non-recipients belonged to ethnic minority people; B = ethnic minority people of neighboring villages; C = migrants

The information presented in Table 5 & 6 demonstrates great differences between the legal and local property rights indicating a conflict over property rights when translating the legal property rights into the working rights. According devolution policies, the legal property rights are only handed over to forest recipients (Group A2). As a result, forest recipients have five rights as presented above. In practice, although other actors (Group A1, A3, B, and C) do not have legal rights, but they have the local property rights. For example, in Cham B village, non-forest recipients (Group B) do not have legal rights, but they have local rights to harvest timber, NTFP, management of forests and other rights like forest recipients (group A2). In Diet village, though non-forest recipients (group A3) do not have legal rights because devolution did not select them, they have local rights with five rights as forest recipients. Ignoring existence of local property right system in the localities, devolution created two confronting systems of property rights in practice.

Since two systems of property rights are parallel in practice, the question is which property rights are working rights? Understanding this issue is very crucial to understand how local people behave towards forest resources.

(d) The gaps between local, legal rights and practices

This section's aim is to present the distances or gaps between local, legal rights and practices to understand which rights are working ones. The comparison is also conducted between Cham B and Diet villages.

In Cham B village (see Table 7), although observed practices are not totally analogous to the local rights, they indicate that local rights are dominant and working in practice. For example, activities of group A1 is completely followed the local rights. Group A2 and group B are also similar when we compare the local rights and practices. One remark should be taken into account that the right of exclusion as regulated by the local rights does not function properly in practice even though people have right of exclusion. Ones can see that group A2 hold rights of exclusion issued by the traditional and legal laws, but they cannot exclude illegal loggers. Ones can also see people belonged to Group C, who do not have right of withdrawal timber after devolution, but they do in practice. It means that Group C has not been excluded.

Comparing the legal rights and observed practices, we also can see big gaps. Not including group A2, other groups although have no rights granted by the legal rights, they are cutting timber, NTFPs and managing devolved forest resources in practice. The observed practices reflect that the legal rights are not working rights. Only group A2, who have been selected by devolution, following the legal rights. The rest groups do not perform as regulated by the legal rights.

In Diet village, the observed practices demonstrate alike results to Cham B in some aspects but they are quite different to many respects. Looking at Table 8, although ones can see that not all groups obey the local property rights, ones also can see the practices meet the local rights much better than the legal rights. For example, group A2 and A3 totally perform as the local rights regulated. Of course, there still exist gaps between local rights and practices. Ones can see the gaps happening to the group B and C. For example, group B and C do not have local right to cut timber, but they do in practice. This indicates that the local rights are even though respected by local indigenous people in the study villages, yet they may not be respected by ethnic minority groups of neighboring villages and migrants. It should be noted that this is a radical change as compared to the past traditional customs. Historically, ethnic

minority groups always behaved pursuant to the local rights, yet under devolution these strict rules are no longer remained in environment, where local communities are heterogeneity, various interests and many kinds of property rights are being co-existed in communities.

As compared between two villages, ones can see the legal rights are different from observed practices. While the local rights are distinguished among actors, forest products and differences between villages, the legal property rights do not have clear-cut classification like the local rights. While the legal rights only classify 2 groups: forest recipients and non-forest recipients, the local property rights classify differently among 4 key actors associated with different forest products.

The local rights between two villages and behaviors of four actors are also dissimilar between Diet and Cham B. This indicates that local conditions of the two villages have significant roles to play in shaping activities of local people towards forest resources. For example, group A1 in Cham B village has different action from group A1 in Diet village. The natures of group A1 in Cham B is different from their counterparts in Diet. Looking at group C in Cham B and Diet villages, they also have dissimilar actions. Group C clear forest for shifting cultivation in Cham B, but migrants in Diet do not act like their counterparts, they focus on withdrawal of timber.

The exclusion right is observed in a weak status in both villages. It is unclear between forest recipients and ethnic minority groups (e.g. group B in Cham B and group A3 in Buon Diet). People hold right of exclusion, but they find themselves difficult to perform this task.

Table 7: The gaps between local, legal rights and practices in Cham B village after devolution

Rights	Legal property rights			Local property rights				Observed practices			
	A1	A2	B & C	A1	A2	B	C	A1	A2	B	C
Withdrawal timber	no	yes	no	no	yes	yes	no	no	yes	yes	yes
Withdrawal NTFP	no	yes	no	yes	yes	yes	yes	yes	yes	yes	yes
Management	no	yes	no	no	yes	yes	no	no	yes	yes	yes
Exclusion	no	yes	no	no	yes	yes	yes	no	weak	unclear	no
Alienation	no	yes	no	no	yes	yes	no	no	yes	yes	no

Table 8: The gaps between local, legal rights and practices in Diet village after devolution

Rights	Legal property rights			Local property rights					Observed practices			
	A1	A2	A3, B & C	A1	A2	A3	B	C	A1	A2	A3	B&C
Withdrawal timber	no	yes	no	no	yes	yes	no	no	yes	yes	yes	yes
Withdrawal NTFP	no	yes	no	yes	yes	yes	yes	yes	yes	yes	yes	yes
Management	no	yes	no	no	yes	yes	no	no	no	yes	yes	no
Exclusion	no	yes	no	no	yes	yes	no	no	no	weak	unclear	no
Alienation	no	yes	no	no	yes	yes	no	no	no	yes	yes	no

Notes: A1 = non-recipients belonged to Kinh group; A2 = recipients; A3 = non-recipients belonged to ethnic minority people;

B = ethnic minority people of neighboring villages; C = migrants

Processes of changes

The above findings on diverse patterns of changes in property rights demonstrate a complex reality indicating that we cannot understand the changes in property rights unless we carefully look at the processes of their changes. Thus, this section elaborates the property right changes (summarized in the above tables) with an emphasis on how some property rights change while other rights do not change.

The way people change their property rights depends on different actors. For example in Cham B, under impacts of devolution policies, local property rights do not modify the rights to ethnic minority groups of Cham A (group B), whose relations over forest use have been embedded in traditional social structures. Looking at two different groups of A and B (after devolution they are called as groups A2 and B), these groups do not have any change after devolution⁴. The study found out that these two groups are the same ethnic minority group (the E De), who used to live in the same village and have shared cultivation lands in the same areas, where forests are selected for current devolution. The traditional relation between these two groups over forest resources have been established many years ago in the past, it remains stability. The local property rights decided by the local people are social collective selection, thus they are seen as a rational choice by community. Although the two groups were separated into two villages in 1987 (see background) under promotion of the state resettlement program, our investigation show that people still have close relative relationship, especially in forest use and management. The characteristics of community and social structures lead local villagers not support to change property rights. Although changing the local rights by the legal rights may create advantages for local people in Cham B, it may leave disadvantages for their fellow villagers in Cham A. Traditional customs of the local villagers and the local community culture do not allow doing so.

Under impacts of devolution, group C (migrants) has been influenced, however. The findings in Cham B reveal that local villagers do not support migrants holding right of withdrawal timber after devolution. It is worth noting that before devolution when forests in Cham B still belonged to management of state forest enterprise (a representative of state at the local village as forest owner) the local villagers used to support migrants with right of timber harvesting. When handing legal property rights over to the local people, legal property rights induce incentives for local people. Because people in Cham B village were foreseen potential benefits from devolved forests, they wanted to limit the rights of timber cutting of migrants.

⁴ I do not pay my attention to group A1 due to the fact that this group consists of 4 households of Kinh people, a minor proportion of population in Cham B village and they do not have emergent problems in connection to forest resource use and management.

From the facts of Cham B, ones can see that when granting property rights, perception of local villagers about the local rights are changed, forest use policy of local people also change. Interestingly, when local people have to make a choice to limit appropriators from devolved forests, the inhabitants of Cham B selected an alternative that exclude migrants instead of excluding ethnic minority groups.

In Diet village, the process of change also depends on different actors. When having impacts of devolution, group A2 and A3 do not change property rights because they are the same ethnic minority people, who have had the same traditional history formerly. It should be noted that forest recipients and non-forest recipients of ethnic minority group in Diet hold the same local rights, but other groups such as A1 and B change property rights. These groups do not have the same history as groups A2 and A3. Diet village and other neighboring villages do not have the same traditional laws. Thus, their social relations are quite different. Migrants and other neighboring villages of Diet are not the same ethnic group with Diet villagers.

The way people change their local property rights also depends on different types of goods. Characteristics of forest resources have certain roles to play in changing local property rights. While the rights of cutting of timber, management of forests are changed with different actors and villages, right of collecting of NTFP does not change with any actors and any villages. Our findings reveal that NTFPs in the study villages are quite abundant. An investigation conducted in Cham B village shows that 251 types of 192 species were found (Nguyen Cong Tri, 2002). NTFPs are very necessary for every family in the village. NTFPs are seen as an important source of the local villagers being used with multiple purposes. As reported by Nguyen Cong Tri, 116 species are used as food; 47 species are material to construct house or furniture; 25 species are used as local medicine; and 4 species are used as fodders (Nguyen Cong Tri, 2002). Our observations indicate that NTFPs can naturally regenerate quickly after being harvested in a short period of time. They can be collected easily inside the forest, along forest boundaries, and on the roads to forest. Due to abundant characteristic of these forest products, the local right allows all villagers including outsiders to collect NTFPs, using for both family and selling on the local markets. NTFPs can be harvested everywhere without limitation on harvesting area and yield. Since special characteristics of NTFPs, the rights to collect NTFPs remain as unchanged after devolution for all actors.

The way people change their local property rights depends on local conditions of specific villages. Although devolution policies have the same value for Diet and Cham B villages, the changes in property rights are different between two villages. For example, the influences of migration and market economy are not emergent in Cham B. Social structures of people in

Cham B village and their neighboring villages are relative alike. People in Cham B and ethnic minority groups of neighboring village (Cham A) have the same village history. It is understandable why their local property rights are differently change as compared from Diet village, where migration is problematic; local people have influenced by market economy and village histories of Diet and their neighboring villages are big different. In addition, it should be noted that different villages also have dissimilar local conditions. Natural characteristics of different villages also contribute to different changes in property rights. Local forest governance structures should be seen as a significant component influencing different changes in local property rights. Due to the scope of this paper, I admit governance structure is a local condition making different changes in property rights, but it is not presented in this paper.

Why the legal rights could not become the working rights?

As already presented above, although devolution have various influences on local property rights, the legal rights or devolution policies have not been employed by the local people after devolution. The working rights are still local property rights instead of the legal rights. In this section, using property right perspective, I will try to explain why the legal rights have not translated into the rights-in-use yet.

Firstly, one can see that the state vision about property rights is quite different from the local people's vision. The legal property rights are developed according to the land laws and state forestry regulations, which are suitable for state forest enterprises, but they are not easy for the local people to perform. Devolution only paid attentions to forest recipients and non-forest recipients. In contrast, the local villagers have developed local property rights for long periods of times, based on community habits, which satisfied various demands of different actors in society. If we view that property rights are social relations shaping interaction of different actors over forest resources, such devolution policies cannot be supported by the whole local people, especially those are not belonged to forest recipients. Taking non-timber forest products are an example. One can see that NTFPs are redundant, essential for all village actors, but devolution policies are only allowed forest recipients collect NTFPs. As long as the legal property rights conflict with the local property rights, it is difficult to translate the legal rights into the rights-in-use.

Secondly, under impacts of devolution, ones can see that property rights are different changed from village to village. It indicates that devolution policies cannot work in practice unless it has flexible mechanism to adapt in different conditions of local communities. Looking at Table 3 & 4, ones can see that after devolution local actors have different behaviors over forest resources. In Cham B, clearing forest for development of shifting cultivation land is

increased while cutting of timber are reduced by the local users. In contrast, in Diet village cutting of timber are emergent as big problem after devolution, whereas clearing forest for shifting cultivation is not a problem. Due to the fact of complexity, it is anticipated that there is no devolution policy that could be satisfy the various demands of local actors. If devolution wanted to create a space for local people participating in forest management, it should be involved people in designing policy and decision-making process. The findings from study with the big gaps between legal and local property rights indicate the fact that lack of active participation of local villagers. This explains why devolution policies or legal rights are conflicting and cannot be translated into the rights-in-use.

Thirdly, under economic perspective when the legal rights do not meet the local rights, the costs for translating the legal rights into the rights-in-use as well as the costs for maintaining the legal rights after translation process will be very high. In addition to the high costs, the low expected benefits will lead local people not support to changing their existing rights. Thus, the legal property rights do not work in practice. Looking at Table 7, for example, ones can see people of group B, who have no legal property rights, but have full local property rights. To translate the legal rights into the rights-in-use, people in Cham B firstly have to exclude their relatives from group B from devolved forests. This process is costly (if impossible) because one the one hand, the local people in Cham B cannot give up their traditional customs, they also cannot fight their own relatives, on the other. In Diet village, a similar example can be seen by looking at forest recipients of Diet and group A3 (Table 8). People belonged to group A3 do not have legal rights, but they hold full local rights. To translate the legal rights into working rights, people in Diet village have to exclude their fellow villagers (if not possible). This process is more costly than exclude migrants because the community norms do not allow doing so.

5) Conclusion and recommendations

In sum, this paper has provided a complex picture about various patterns of changes in property rights including local and legal property rights, between the property rights and real actions in practice. This paper has also compared and pointed out differentiation on property rights between two study villages, indicating that different villages do not have similar changes under impacts of devolution.

The study has also demonstrated diverse changes in property rights depending on the natures of actors (e.g. recipients or non-recipients, ethnic minority or migrants, people live in study village or neighboring villages), types of goods (timber, non-timber forest products or land) and local conditions (villages). Thus, this study calls for an attention that although devolution

is seen as radical innovative policy, it must be look at different actors, specific types of forest products of local conditions. It can be seen that there is no devolution policy which could satisfy these conditions. If devolution wants to cerate a space for local people, it should be build upon the local property rights.

It is important to remark that the gaps between the local and legal rights often exist. The distances between the property rights and real practices are often found, indicating that transferring the legal property rights into local property rights are big challenges. Although seeking for suitable measures to elaborate property rights are difficult, the observed practices are very close to the local property rights rather than the legal rights. This indicates the local rights are working rights, shaping behaviors of local people over forest resources. Although the local rights are not totally respected by all actors, it demonstrates that the local rights are dominant as observed in the study villages.

Also from this study, however, it should be noted that the common rule that local ethnic minority villagers, who usually behave following the traditional rights have changed. Under impacts of devolution policies and other factors (which have not been found out by this study) ethnic minority people do not totally do according to the local rights, it calls for an attention when conducting study about local property rights, researchers have to be conscious with sophisticated tools in order to understand property right changes.

The processes of property right changes and engines of changes are complicated and different from village to village. Although this study has pointed out three causes leading to the legal rights cannot be translated into the rights-in-uses. It still remains other unforeseen factors. Thus, to obtain the desirable objectives of devolution, it is requested that we need further research efforts.

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