

# How does forest decentralization influence property rights in Community Forest Management? Case study from Upland in Thua Thien Hue, Vietnam

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## Abstract

Allocating forest to village/community is pilot in process of community forest management (CFM) institutional in Vietnam. After forest allocation, villagers become forest owners. In this context, the study's conceptual framework views the allocating forest to community as political decentralization- a form of decentralization in forest management and changes in property rights under forest decentralization as transfers of "bundles of rights". This study was conducted in two villages in Hong Ha commune, A Luoi district, Thua Thien Hue province, Vietnam. Kan Sam village was selected as representation of community that is allocated forest by state and Pahy village was selected as representation of community that manages forest by customary law. Through two villages in Thua Thien Hue's upland, the study found out three key findings as follows:

The first finding argues that allocating forest to community was derived from outsiders (local authorities and sponsor). Due to lack of external supports after allocated forest to community, so state indirectly shifts the burden of cost of natural forest management to community through natural forest allocation.

The second finding point out that changes in formal rights (legal rights) in the two villages vary, while informal rights (rights in practice) are similar. The forest decentralization has significantly changed formal rights over community forest. Before allocating forest, both villages just have formal rights of access. After allocating forest, Pahy's villagers are the same formal rights, while Kan Sam's villagers have formal rights of access, withdrawal, management and exclusion. Contrary to formal rights, informal rights over community forest seem to be unchangeable under forest decentralization.

The third finding makes a proposition that gaps between formal rights and informal rights over community forest always exist. There are three main causes lead to these gaps: lack of legal environment and support from local authorities; social and power relations (kinship); and differences of perception between old and young generations.

**Key words:** Forest decentralization, Community forest management, Property rights

## 1. Introduction

Nowadays, decentralization is a dominant theme in the discussion of policy of natural resource management in general, and particularly forest management. Decentralization has emerged as a major strategy for many national governments to achieve development goals, provide public services, and undertake environmental conservation (Agrawal and Ostrom, 2001). Governments believe that decentralization not only can improve service delivery by bringing decision-making and implementation closer to the target population, but also can cut the central government's costs and improve efficiency by reducing the size of the central bureaucracy (Dupar and et al., 2002).

In Vietnam, decentralization has occurred within special sectors such as forestry, agriculture, and so on (Dupar and et al., 2002). Decentralization of forestry in Vietnam can be traced back from the late 1980s to the early 1990s. Before the economic reform policy, popularly known as *Đổi Mới* (Renovation) that was initiated in 1986, forest management had been highly centralized. Under the *Đổi Mới* policy, the government has allocated forestland to households and individuals for planting both protection, and production forests since 1994. Management authority was directly transferred from the state to the community/village, households and individuals through the Forest Land Allocation (FLA) policy. Devolving rights to local people can bridge the gap between customary and statutory rights, heighten tenure security, and harmonize relations between government and local resource users (Meinzen-Dick and Knox, 2001).

As with most areas in the country, natural forests in Hong Ha commune, A Luoi district, Thua Thien Hue province are de jure governed by state property regime and management have been allocated to government agencies and local governments, mainly through Song Bo Protection Forest Management Board (PFMB) and Hong Ha Commune People's Committee (CPC). However, in the fact, local people-who are ethnic minorities, live edge of those forests and their livelihood mainly depends on forest-consider those forests as common pool resources. Since 2005, A Luoi District People's Committee (DPC) has allocated natural forest, which formerly was managed by Song Bo PFMB, to Kan Sam village, Hong Ha commune. There are two main reasons of natural forest allocation. Firstly, handing authority of forest resource management over to local people, the state expects that local people will be able to obtain additional benefits generated by forest management activities and forestland resources. Secondly, by encouraging participation of local people in forest management, it is presumed that communities/villagers will be able to effectively manage allocated forests, which were formerly assigned to Song Bo PFMB and CPC.

With this context, the study tries to investigate changes in property rights in the CFM under different environment in Thua Thien Hue' upland with aim to understand what happen to CFM under property rights changes, in terms of changes in formal and informal rights.

## **2. Theoretical Approach**

### **2.1. Dimensions of Decentralization**

Decentralization is not a new phenomenon in developing countries, but its emergence has differentiated over time and place. According to Agrawal and Ostrom (2001), since political leaders, international donors, and local people and their leaders have begun to see decentralization as a means to achieve political-economic and policy objectives, decentralization has been an important objective of state policy. Studying decentralization in developing countries, the World Bank has reported "Of seventy five developing countries and transitional countries with populations greater than five million, all but twelve claim to be embarked on some form of transfer of political power to local units of governments" (Agrawal and Ribot, 1999)

Decentralization is a term that is difficult to clearly define. It is divided into many forms and looked at through various respects by scholars. According to Agrawal and Ribot (1999) and Ribot (2002) decentralization is any act in which central government formally cedes power to actors and institutions at lower levels in a political-administrative and territorial hierarchy. Meinzen-Dick and Knox (2001) define decentralization as transferring both decision-making authority and payment responsibility to lower levels of government. Similarly, Cheema and Rondinelli (1983) define that decentralization is the transfer of planning, decision-making, or administrative authority from the central government to its field organizations, local administrative units, semi-autonomous and parastatal organizations, local governments, or non-governmental organizations. Although decentralization is defined by many scholars, most definitions refer to the giving of powers and rights from central government to actors at lower levels. Decentralization has been implemented under various forms. Its forms include political, administrative, fiscal, and market decentralization. Political, administrative, fiscal and market decentralization can also appear in different forms and combinations across countries, within countries and even within sectors.

In the context of natural resource management, decentralization mainly has taken place under two forms: political and administrative decentralization. According to Ribot (2002), administrative decentralization (deconcentration) involves the transfer of power to local branches of central state, such as prefects, administrators or local technical line-ministry agents. These upwardly accountable bodies are local administrative extensions of the central state. In contrast, political or democratic decentralization occurs when powers and resources

are transferred to authorities representative of, and downwardly accountable to local populations. Political decentralization aims to increase popular participation in local decision-making. These two definitions are used by many scholars to analyze decentralization in most developing countries.

## **2.2. Some Conceptual Framework for Analyzing Decentralization in Natural Resource Management**

Part of the reason why so many different terms (forms) are used to describe decentralization is that decentralization can take place along many dimensions, towards multiple levels, and for several types of tasks (Agrawal and Ostrom, 2001). Scholars have viewed the study of decentralization from multiple dimensions. Agrawal and Ribot (1999) look at decentralization from three main factors: actors, powers, and accountability. In their conceptualization, the political and administrative domains of decentralization are characterized by the mix of these three underlying analytical dimensions. Djogo and Syaf (2003) analyze the decentralization process by linking authority and power relations to the accountability of forest resource governance. A conceptual framework is developed by Meinzen-Dick and Knox (2001) that considers potential roles, incentives and capacity issues for each actor in the certain context; and also considers the relationships among these institutions in terms of decision-making, service provision, resource flows, and accountability. There are no clear prescriptions, but it is useful to consider who makes what types of decisions, what services each provides, who pays whom for the different services, and how and to whom each institution is accountable. Additionally, Agrawal and Ostrom (2001) analyze decentralization through examination of its politics and property rights. They focus on the politics of decentralization to identify the actors most likely to initiate decentralization activities. Considering property rights under decentralization, the rights and capacities that are transferred to actors at lower levels of political organization can be examined.

## **2.3. Debate on Ideas of Property Rights in Natural Resource Management**

What is property? According to Macpherson, the definition of what property is not simple, because when people have different expectations they tend to see facts differently (Macpherson, 1978). Many economists treat property as a physical object such as dwelling, a piece of land, or some such possession (Bromley, 1991). Most modern writers often treated property as identical with private property, an exclusive individual right (Macpherson, 1978). According to Bromley, property is a benefit (or income) stream. Property is not an object but rather is a social relation that defines the property holder with respect to something of value (the benefit stream) against all others (Bromley, 1991). Macpherson views property from power relations, he argued that “property as a right, not a thing; a right in the sense of an enforceable claim to some use or benefit of something” (Macpherson, 1978). Peter Vandergeest (1997) suggests that property minimally involves a legitimate and enforceable claim to some kind of resources. According to him, property can be seen a set of everyday practices as well as social relationship and rules

As debated above, the property relations are social relations between people, not relations between people and things. In natural resource in rural social or in the field, therefore, property rights “is a set of everyday practice as well as social relationships and rules” (Vandergeest, 1997:4). In fact, changes in population density, technology, political power, and on forth leads to changes in the assignment of property right and in the institutional arrangements related to these rights (Feder and Feeny, 1991). According to Vandergeest, in the everyday practice, property regime are formed by the complex relations of political, legal, economic, cultural, gender; kin relations; and so on that are ambiguous, negotiated, changing over time. He also argued that, state always claim a clear priority in the right to administer property rights. But kinds of practices including state administered property could be contrasted with local property. In reality, in small communities, where people live for a long time, communication can take the

form of oral or locally meaningful markers; acceptance means convincing a few family or neighbors about claim; memory is usually achieved by living in a place for a while; and enforcement is done by informal community sanctions (Vandergeest, 1997).

To understand how property rights, everyday practice, discourse, power, institutions, and the state combined in resource management, we need to explore the scope and nature of property rights inherent in resource management regime, in which emphasize regimes as human creations whose purpose is to manage people in their use of environmental resources. The resource management regime is a structure of rights and duties characterizing the relationship of individuals to one another with respect to that particular environmental resource (Bromley, 1991). There are four ways that is sufficient to consider four possible resource management regimes: (1) State property regime; (2) Private property regime; (3) Common property regime; and (4) Non-property regime (Open access). There is no absolute one regime rather there is always a shifting from one regime to the other depending on the changes of social and political contextualization. In addition, there are two important concerns with property right. The first, in a society, individuals belong to more than one sub-group, and each sub-group has its norms or codes of behavior. The second, the four fundamental legal relations (right/duty, privilege/no right, power/liability, and immunity/no power) can reduce into two further categories that are either active/positive or passive/negative. The right/duty and power/liability relations are active, because they represent imperative relations, which depend on the authority of state. Meanwhile, the privilege/no right and immunity/no power relations are passive/negative in that they are not themselves subject to direct legal enforcement (Bromley, 1991).

In terms of property regimes, a main distinction among the state property, private property, and common property regime base on the decision-making inherent in each property regime, in which the state gives or takes away rights in something of one, that means state agrees or do not agrees to protect one's claim in something. Particularly, the private property regime is usually considered as ones in which a single owner can decide what shall be done. The common property regime still requires consensus among all the co-owners before certain actions can be taken, even it have well organized (Bromley, 1991).

#### **2.4. Change in Property Rights as Transfer of “Bundles of Rights”**

In their analytical framework of decentralization, Meinzen-Dick, Knox, Agrawal and Ostrom have followed the classification of types of property rights, which has been developed by Schlager and Ostrom (1992) to analyze transfers of rights from central government to actors at lower levels.

Property rights can be defined as relationships among social actors with respect to things such as natural resources (Agrawal and Ostrom, 2001), and if one individual has a right, then someone else has a commensurate duty to observe that right (Schlager and Ostrom, 1992). We, therefore, base on classification of types of property rights on those that have been developed by Schlager and Ostrom (1992) to analyze changes in rights over forest under forest decentralization. Such classification is presented below:

- Access: Right to enter a defined area & enjoy non-subtractive benefits
- Withdrawal: Right to obtain units or products of a resource system
- Management: Right to regulate internal use patterns and transform the resource by making improvements
- Exclusion: Right to determine who will have an access right, and how it is transferred
- Alienation: Right to sell or lease above rights

The change in property rights in context of natural resource management could be seen as a change in the “bundle of rights” represented by the five aforementioned types of rights, including formal and informal rights. In this manner, formal rights concern the rights of access, withdrawal, management, exclusion and alienation that are enforced by the state (central government) with lawful recognition by formal and legal instrumentality. With formal rights, the right-holder can presume in an administrative or judicial setting (law, court...) if their rights are challenged. Informal rights refer to empirical practice in cases that are not recognized by the state as legitimate in which rights are defined and enforced by resource users themselves. In some situations, informal rights may be realized as the recognition of the courts of law if being challenged but they are less secure than formal rights (Schlager and Ostrom 1992).

The forest decentralization program often speaks of an attempt to give user groups “a sense of ownership” so that they willingly take care of, and invest in the forest. Although “a sense of ownership” is difficult to convey without real rights, where governments have borne the cost of developing the forest, there has been reluctance to transfer its ownership to user groups (Meizen-Dick and Knox, 2001). However, user groups often face challenges in the transition from legal rights to rights in practice. It is necessary to find causes leading to gaps between formal and informal rights.

## 2.5. Conceptual Framework

The conceptual framework of this study (figure 1) considers community forest as entry point within research sites and change in property rights over forest as transferring from state property to community property. Given such framework, we firstly identify social actors as holders of rights and what types of right (bundles of rights) that they hold. Secondly, we examine how they implement those rights, including formal and informal rights. Finally, we analyze causes that lead to gaps between formal rights and informal rights.

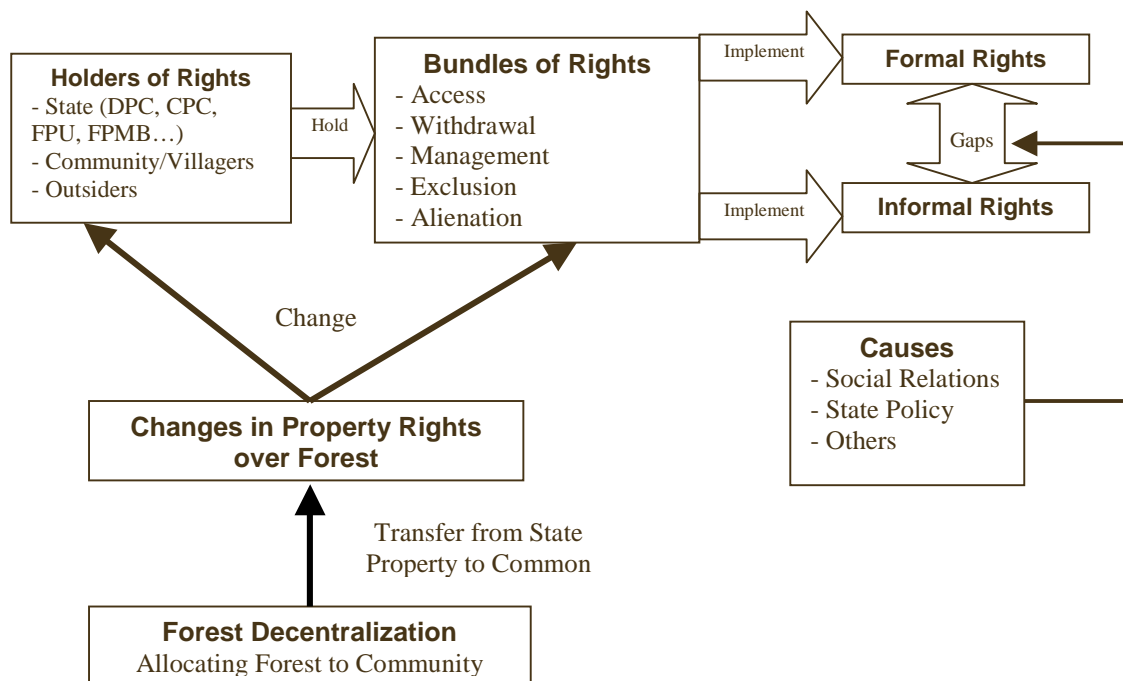


Figure 1: Conceptual framework of study

### **3. Basic Information of Kan Sam and Pahy Villages, Hong Ha Commune, A Luoi District, Thua Thien Hue Province**

The study was conducted in two villages in Thua Thien Hue's upland. Kan Sam village, Hong Ha commune is selected as representation of community that is allocated forest by state. Pahy village, Hong Ha commune is selected as representation of community that state has not allocated forest yet.

The population of both villages is mainly ethnic minorities, which are 40 Co Tu households in Kan Sam village, 31 Ta Oi households, 15 Pa Co households, 12 Pa Hy households, 3 Co Tu households, and 14 Kinh households in Pa Hy village.

In both villages, land for wet rice cultivation is very limited, and mainly locate on the both sides of rivers, creeks, and streams, or on the low valleys. Swidden land is not very fertile. Local people, therefore, cultivate hill rice once a year, cassava and some other crops such as maize, banana, beans. Presently, local people's life mainly depends on wet rice and hill rice cultivation. However, here is not enough land for cultivating wet and hill rice. As a result, they are lack of food and still pressure over forest resources.

### **4. Incentives for Allocating Natural Forest to Community**

Generally, the social actors involved in the process of allocating natural forest to community can be divided into four major groups as follows: (1) local governments, (2) government agencies, (3) user groups, and (4) NGOs and private sectors. In the case of Hong Ha commune, social actors who are involved in this process are the A Luoi District People's Committee (DPC), and Hong Ha Commune People's Committee (CPC) as local governments/local authorities; the A Luoi Forest Protection Unit (FPU), A Luoi Natural Resource and Environment Office (NREO) as government agencies; the Kan Sam village as user group; and the Green Corridor Project (GCP) as Non-Government Organization (NGO). There are many social actors involved in the process of allocating natural forest to community, but their incentives are as different as chalk and cheese.

Like other areas in the country, under the pressure of the demands of environmental protection and biodiversity conservation from national and international levels, the DPC and CPC strive to reduce deforestation, particularly destruction of natural forest by allocating natural forest to community. CPC entirely agreed with the DPC's decision on allocating natural forest to community, because those forest areas are poor and degraded forest, which cannot be exploited in the coming fifteen to twenty years. They, thus, would be faced with increasing constraints to manage the forests. Meanwhile, after allocated forest to community, there are too little or no supports (legal, technical and financial supports) from local authorities and international projects. Therefore, it can be said that the natural forest allocation has created an opportunity for the CPC to shift the cost of forest management toward the community, who would bear the cost of such forest areas.

Another reason that DPC and CPC are encouraged to be involved in the allocating natural forest is in relation to political aspect. This reason is similar in case of Thuong Quang commune, the commune was selected as pilot site for allocating natural forest to household groups since 2003 that is the leaders of local authorities, especially at the commune level, would like to gain a higher position when they execute the state policies-allocating natural forest to user groups- well (Tuan, 2006)

For the government agencies, the FPU is eager to be involved in the natural forest allocation process, because they get many benefits from GCP, which improve their capacity relating new approach in CFM implementation, although their main task is to deal with violations of forest protection and ensure the observance of forest protection and development legislation. In contrast to the FPU, the NREO has inactively participated in the natural forest allocation

process, because they did not get benefits from GCP. The NREO has participated in the natural forest allocation process, due to their mandates assigned by the DPC.

The motivation of the community to be involved in the natural forest allocation process is to have an official right to use the forest and forestland as well as the related benefits from GCP. After allocated forest to community, GCP has funded training course on rattan plantation techniques, and experiment plantation of Rattan and La Ke tree in allocated forest.

The GCP has supported financial for local authorities to allocate natural forest to community with two major objectives: (1) to gain support and commitment from local communities for biodiversity conservation through the implementation of community-based initiatives in forest management and restoration, and (2) to encourage local sustainable forest management and improve local livelihoods.

## **5. Change in Formal and Informal Rights over Community Forest under Forest Decentralization**

In context of forest decentralization in Vietnam, we can examine the changes in property rights after allocating forest to community by using “bundles of rights” approach of Schlager and Ostrom (1992). Below is “bundles of rights” that is modified to correspond with the local context:

- Access: The right to go into or to walk on the community forest/allocated forest for relaxation.
- Withdrawal: The right to obtain the products of forest such as the right to cut timber, and to collect NTFPs.
- Management: The right to regulate internal use patterns and to transform the forest resource by making improvements such as the right to use allocated forestland without forest cover for agricultural production, to plant trees in forest, to thin forest, and to enrich forest.
- Exclusion: The right to determine who will have an access right, and withdrawal right such as the right to stop violators who cut timber or do any activities without permission and the right to determine who can cut timber and collect NTFPs.
- Alienation: The right to sell or lease the above rights such as the right to transfer, exchange, lease, inherit, and mortgage the community forest/allocated forest

According to Agrawal and Ostrom (2001), instead of focusing on rights only, it is more useful to define right holders. In case of Hong Ha commune, rights holders can be divided into three major groups as follows: state (DPC, CPC, FPU), collective (Kan Sam village management board-VMB), and individual (Kan Sam villager, Pahy villager and outsiders). In this view, right holders may hold well-defined property rights that include a combination of five rights defined above.

### **5.1. Differences in formal rights over forest between the two villages**

Formerly, all natural forests in Hong Ha commune were owned by the Song Bo PFMB and CPC. Song Bo PFMB was the official managers of such forests, in which they performed tasks of logging, afforestation, and forest enrichment. Since 1994, following the Đổi Mới policy (Renovation policy), the Song Bo PFMB’s monopoly of forest resources has been gradually abolished, and they have changed their tasks from focusing on forest exploitation to focusing on forest management. In order to secure new tasks under that circumstance, the Song Bo PFMB considers villagers or village as collective units under contract for forest protection and management. In addition, the remaining forest areas in Hong Ha commune, which have not been allocated to any organizations and households or individuals, are assigned

CPC to manage. CPC then, assigned villages to manage these forests. In this manner, all villagers in both villages had the same roles as protectors of Song Bo PFMB's forest through contracts or forest that is managed CPC through assigned task. Through contract for forest protection with Song Bo PFMB, villager is paid 50,000VND/ha/year (approximate 3 USD/ha/year). They are not allowed to cut timber, hunt, or implement shifting cultivation. Villagers must frequently patrol the contracted forest to exclude violators. The heart of the policy on natural forest protection contract is that the state (Song Bo PFMB, CPC) hires villagers to protect their forests. In summary, before FLA implementation, like other natural resources such as land and water, forest resources were managed under the state property regime. Any activity that relates to the forest resources must be permitted by the state. The CPC, FPU and Song Bo PFMB, who are representatives of the state, take charge of forest management within the locality. They, therefore, have all of the all rights (access, withdrawal, management and exclusion) to oversee and perform forest management tasks. Meanwhile, villager just has right of access.

After allocating forest to Kan Sam village, differences of formal rights over forest were occurred. Such rights have not been changed in case of Pahy village. Meanwhile, the formal rights in case of Kan Sam village have changed significantly. For allocated forests management, the Kan Sam village developed the village's forest protection and management regulation under the FPU's assistance. The process of the regulation development is presented as follows:

- Step 1: The FPU assists the villagers to prepare a framework for the village's forest protection and management regulation. The rules should include the following parts: (1) what has to be done, (2) what is permitted, (3) what is encouraged, (4) what must not be done, (5) rights and responsibilities of the villagers, (5) awards and penalties, (6) provisions for implementation.
- Step 2: The FPU facilitates a workshop to prepare a draft of the village's forest protection and management regulation. The workshop's participants consist of key staffs of the commune, head of village, village patriarchs, and representatives of villager.
- Step 3: Organizing a village meeting to get comments and approving the regulation.
- Step 4: The head of village submits the regulation to the CPC; the Chairman of the CPC then signs it, and submits it to the DPC so that the Chairman of the DPC can make a decision on the village's forest management regulation.
- Step 5: The head of village holds a village meeting to disseminate the village's forest protection and management regulation that have been approved by the Chairman of the DPC.

According to the Kan Sam village forest protection and management regulation, the villagers have rights of access, withdrawal, management and exclusion over allocated forest (community forest). These rights are meticulously presented as follows:

- *Right of access*: everyone has right to walk on forest, but for relaxation only
- *Right of withdrawal*: villagers have right to gather NTFPs such as cut rattan, bamboo shoot, mushroom, hat conical leaves, vegetables, medical plants, and so on, but not allow to hunt or trap wildlife; to cut dry firewood; and to cut timber. With regard to wood products, annually the village is to make a plan for harvesting of wood from the forest in accordance with the benefit principles that are stipulated by the village's forest protection and management regulation, and forward it to the CPC for confirmation. The FPU and the head of village subsequently visit the location and verify the number of,



and types of trees to be harvested, the harvesting method and the transportation of wood will be carried out in such a way that the protective function of the forest is harmed as little as possible. They are then to take minutes, which are appraised by the Agriculture and Rural Development Office (ARDO), and finally submit the plan to the DPC to grant a permit for logging. The village has to ask the FPU for checking and stamping before the logging, transport for processing or sale.

- *Right of management:* VMB has right to assign villagers to patrol community forest. Villagers have right to plant trees (acacia species, indigenous species, NTFP species, agricultural crops) in bare land that locate in allocated forest; to thin forest, and to enrich forest; to use the land for grazing of domestic animals and also other purposes as long as the activities are conducive to the continued growth of the forest. The villagers also are allowed to use a part of allocated forestry land without forest cover for agricultural production, but not more than 20% of such land.
- *Right of exclusion:* villagers should patrol the allocated forest to stop violators. However, this right is very limited. Even the villagers detect violators, they just have right to make a minutes of the violation, thereafter informing the FPU or CPC to punish.

Table 2: The formal rights over forest after forest decentralization in two villages

Bundles of rights	Social Actors Actions (What social actors do?)	State (DPC, CPC, FPU)	Individual/Household			
			Collective Kan Sam VMB	Kan Sam villager	Pahy villager	Outsiders
Access	- Walk on forest for relaxation	x	x	x	x	x
Withdrawal	- Legal timber harvesting in allocated forests		x	x		
	- Collecting NTFPs in allocated forests (excepting wildlife)		x	x		
Management	Approve harvesting timber quota and grant timber harvesting license	x				
	- Plant trees in bare land in allocated forest		x	x		
	- Thin and enrich allocated forest		x	x		
	- Use a part of bare land in allocated forest for agricultural production (including grazing of domestic animals)		x	x		
Exclusion	- Patrol the allocated forest		x	x		
	- Exclude violators	x	x	x		
	- Punish violators	x				
Alienation						

In addition, the villagers have the following responsibilities: (1) managing, protecting and using allocated forests for purposes within the allocated forest area given in the decision of allocating forest by the competent authority; (2) maintaining and developing the allocated forest resources. The forest recipients must ensure regeneration of the forests within one year after harvesting; and (3) fulfilling all financial obligations as stipulated in applicable laws.

## 5.2. Similarities in informal rights over forest between the two villages

Presently, although state allocated natural forest to Kan Sam village, informal rights over forest (including allocated forest) in both villages are still similar. Villagers' viewpoint on natural forest management has changed little in comparison with traditional society. In fact, they daily exercise rights of withdrawal, and management over forests (see table 3).

Villagers mainly cut timber for building house, making cabinet, furniture, coffin and stable. They also cut timber for sale to get money for household expenses. In both villages, all villagers think that cutting timbers for building or repairing house, making cabinet, furniture, coffin and stable is no need to ask permission of local authorities. For building house, household visit forest to select timber. They, subsequently, hire sawyers to cut timber and saw in the forests, and then transport sawn timber to home by pulling buffalo. Even in case of Kan Sam village, villagers of both villages and outsiders still cut timber in the allocated forest like above way (right of withdrawal).

According to the villagers, they gather NTFPs by proprietary notations during the discovery process. NTFPs sites are claimed as the property of the people who find them, if somebody detect NTFPs, then they have right to gather it. For instance, if you detect a beehive on a tree, you just thrust at that tree and stick a branch of tree towards that beehive. In that case, although you have not exploited it yet, anyone would recognize that you are the beehive's owner. Therefore, they are not allowed to exploit it. In fact, in Hong Ha commune, local people still trap wildlife although state strictly prohibit. They also fish in the streams in forest for daily meals or for sale (right of withdrawal).

Villagers also gain benefit from forest through shifting cultivation (Right of management). Formerly, when slash-and-burn was the principal farming technique, land that was not planted with a crop was allowed to lie uncultivated. After seven to ten years people came back and cut it down once again, burned the site and planted for a season, went through a cycle of crop rotation for a second time, and then the third. In recent years, as a result of population growth on one hand, and government prohibitions of slash-and-burn on other hand, the villagers have used such land to plant forest trees like Acacia species or Rubber tree mixed with cassava. However, villagers still plant hill rice in swidden land in allocated forest to mainly use in traditional festivals.

Contrary to formal rights, informal rights have not changed under forest decentralization in both villages. Although villagers of neighboring villages (outsiders) have only right of access and over allocated forest, they in fact still cut timber and gather NTFPs in the allocated forests (right of withdrawal)

Table 3: The informal rights over forest after forest decentralization in two villages

Bundles of rights	Social Actors Actions (What social actors do?)	State (DPC, CPC, FPU)	Collective	Individual/Household		
			Kan Sam VMB	Kan Sam villager	Pahy villager	Outsiders
Withdrawal	- Cut timber in allocated forests without permission		x	x	x	x
	- Collecting NTFPs in allocated forests, including wildlife		x	x	x	x
Management	- Shifting cultivation		x	x	x	x

## **6. Causes Leading Gaps between Formal and Informal Rights over Community Forest**

The previous section has shown the changes in formal and informal rights in CFM under forest decentralization. In fact, the problems in translating formal rights and informal rights often occur. With regard to gaps between formal rights and informal rights, this study concentrates on Kan Sam village case, due to it have significantly changed formal rights over allocated forest. Such gaps can be divided into two cases:

- Case 1: Villagers have formal rights as responsibilities, but they do not or cannot exercise these rights in practice
- Case 2: Villagers carry out activities that they are not allowed to do by state law.

As present above section, although villagers have rights to patrol and plant trees in bare land in allocated forest and exclude violators, they have not yet exercise such rights in fact (case 1). Meanwhile, they are not allowed to cut timber without permission and to trap wildlife, but they still carry out it in fact (case 2). The study found out that three potential causes can lead to gaps between formal and informal rights.

First, an enabling environment to enforce rights and support from the “local authorities”, which is necessary for the villagers to fulfill their rights, is lacking. Villagers experience difficulty in exercising rights to allocated forests. They cannot exclude violators such as villagers within village and villagers of neighboring villages or Kinh people within or outside the commune who do any activities without permission in allocated forest. Particularly, the right to deal with forest violations is very limited. The villagers, even the heads of village do not have authority to punish outsiders, who commit wrongdoing in their forest such as cutting timber, gathering NTFPs and practicing shifting cultivation, but only have the authority to apprehend violators and make a report of the violation, thereafter informing the FPU. In most cases, the violators, who are aware of such problems, often do not sign their name in the minutes when they do not see any of the FPU or CPC staff accompanying the villagers. Therefore, they can escape punishment. Enforcement plays an important role in forest tenure security, yet it is a main challenge facing the villagers if there is a lack of support from the “local authorities”. Even the FPU finds it impossible to effectively support forest management operations in the locality. Lack of staff and resources are emergent challenges for the “local authorities” in providing support to help villagers to enforce their rights. Therefore, exclusion of their activities related to forests is impossible. In addition, for detect and exclude violators (right of exclusion), the Kan Sam VMB have been assigned villagers to patrol the allocated forest in shift. Villagers who patrolled the allocated forest have not got money yet, but head of village take timekeeping only. Therefore, allocated forest patrol was carried out in short time. Villagers are no longer implementation of forest patrol.

The second cause concerns social relations or power relations. Almost villagers within Kan Sam village, who cut timber (without permission) for sale, are village leaders’ kinfolk. Although that activity is wrongdoing, they make corrupt use of their relationship with powerful persons to carry out illegal logging. Thus, it is difficult to exclude them.

Third, differences of perception of CFM between old and young generations still exist. For use bare land in allocated forest, old persons would like to consider such land as common property. They want to plant indigenous species in the bare land to cut timber for repairing building community house or for community demand use. Meanwhile, young persons would like to distribute the bare land into household for planting acacia species for commercial purpose. So far, the bare land have not used yet, although it is villager’s responsibility.

Table 4: Causes of gaps between formal and informal rights over allocated forest

Bundles of rights	Activities	Case of gap	Cause
Withdrawal	- Cut timber without permission - Trap wildlife	Case 2	- Lack of legal environment and support from local authorities - Social and power relations (kinship)
Management	- Plant trees in bare land in allocated forest	Case 1	- Differences of perception between old and young generations
Exclusion	- Patrol the forest - Cannot exclude violators	Case 1	- Lack of legal environment and support from local authorities - Social and power relations (kinship)

## 7. Conclusion and Policy Implications

### 7.1. Conclusion

Allocating forest to village/community is pilot in process of CFM institutional in Vietnam. After forest allocation, villagers become forest owners. In this context, the study's conceptual framework views the allocating forest to community is seen as political decentralization- a form of decentralization in forest management and changes in property rights under forest decentralization as transfers of "bundles of rights". Through two villages in Thua Thien Hue's upland, the study found out three key findings as follows:

The first finding argues that allocating forest to community was derived from outsiders (local authorities and sponsor). Due to lack of external supports after allocated forest to community, so state indirectly shifts the burden of cost of natural forest management to community through natural forest allocation.

The second finding observes that the forest decentralization have significantly changed formal rights. Before allocating forest, both villages just have formal rights of access. After allocating forest, Pahy's villagers are the same formal rights, while Kan Sam's villagers have formal rights of access, withdrawal, management and exclusion. Contrary to formal rights, informal rights seem to be unchangeable under forest decentralization.

The third finding makes a proposition that gaps between formal rights and informal rights of forests always exist. There are three main causes lead to these gaps

- Lack of legal environment and support from local authorities
- Social and power relations (kinship)
- Differences of perception between old and young generations

### 7.2. Policy Implications

Under forest decentralization, devolving property rights of forest resources to village/villagers has provided confidence and they will reap benefits in the future if they invest in the forest today. They, therefore, will have motivation to manage their forest effectively.

However, the findings from the study show that the forest recipients (villagers in Kan Sam village) still face an insecurity of forest rights, due to the lack of legal environment to enforce rights. This problem indicates that the forest decentralization has not always been successful in achieving all objectives. Moreover, even if central government transferred the complete rights and responsibilities to forest recipients, and villagers built the village's forest management regulation, the "local authorities" still have a critical role in enforcing regulations, punishing violators, and settling disputes between forest recipients and outsiders.

Therefore, forest recipients certainly need an enabling environment to enforce rights over their forests. Without such institutional framework, rights or property rights may not be valid and the aim of the FLA policy will be not achieved. In order to deal with this problem in Thua Thien Hue's upland circumstance, the CPC and the FPU should be strengthened to provide support to the forest recipients so that they can enforce the granted rights, particularly monitoring and sanctioning violators.

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