

# Land Allocations in the Vietnamese Uplands: Negotiating Property and Authority

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## Abstract

This paper examines what negotiations over property regarding land in Vietnam's uplands tell us about practices and processes constituting authority. The paper proceeds by way of two local case studies on land allocations in a Thai village in the Northern Mountains and an Ede village in the Central Highlands, complemented by a review of published research on land allocations in other upland settings. The results suggest that control over land is volatile due to competition by multiple politico-legal institutions within and outside 'the state'. As people reference their land claims to multiple institutions they connect negotiations over property in Vietnam's uplands with larger processes constituting authority at national and international scales. The processes, in turn, differentiate rural transformations in Vietnam due to variation in historical and contemporary conditions.

## Introduction

Vietnam's nation-wide program of land allocation has generated a sizable body of research in recent years. Field studies on local-level land allocations across the major upland regions demonstrate the effects of land allocation on local livelihoods (e.g., Scott 2000; Le and Rambo 2001; Nguyen 2005), land and resource use (e.g., Sowerwine 2004; Castella et al. 2006; Jakobsen et al. forthcoming), and local property rights (e.g., Vuong Xuan Tinh 2001; McElwee 2004; Tran 2006). The insights attest to the importance of land allocations for understanding economic, social, and environmental changes in Vietnam's uplands.

Much of the research (including my own) has taken a particular analytical approach that is common to policy research in Vietnam (and beyond). The approach, I argue, takes the authority of the central government as a given. This premise leads researchers of local-level land allocations to typically begin their analysis with a review of the applicable land legislation. They then proceed to examine local dynamics and to connect those with land allocation, seeking to distil effects of land allocation. Many studies unearth significant discrepancies between national land legislation and actual property practices in the process. Some even identify problems in policy implementation as factors explaining the gap between policy and practice. Yet none has departed from the underlying premise of taking the authority of Vietnam's central government as a given.

In this paper, I take an analytical approach to the study of land allocations that is different from previous research (including my own). I use the insights derived from local-level research on land allocations to examine authority relations. In other words, this paper looks at authority relations as they emerge from negotiations over property associated with land allocations. It does not take the authority of any politico-legal institutions, such as the central government, as a given. Instead, the approach taken in this paper traces practices and processes forming, expanding,

modifying, reducing, and abolishing authority, thereby making the authority attributed to the central government a result of the analysis instead of a founding premise.

In this paper, therefore, I explore what land allocations tell us about negotiations over property regarding land in the uplands and their implications for authority relations in and beyond the uplands. In other words, I use land allocation as a lens to examine contestations over authority, authority understood as power considered legitimate in the sense of an emergent social relationship constituted by and, in turn, influencing social practices. The connection between land allocation and authority works as follows: Land allocations bring to light negotiations over property regarding land. These negotiations are typically about use rights to land as well as control over land, the latter understood as the capacity of a politico-legal institution to define and sanction the use rights of social actors. As a result, land allocations tend to involve contestations about control over land, just as any other kind of land policy. At the same time, control over land is a critical element in the relations of authority between politico-legal institutions and social actors. Land allocation therefore serves as a lens to look at processes constituting authority.

Negotiations about control over land, I surmise, can tell us a lot about the processes constituting authority in Vietnam's uplands and beyond. Land remains of crucial importance in the uplands – for its role as a productive resource and symbolic value – and beyond the uplands because of its association with strategic resources (timber, watershed protection, biodiversity, land for colonization, etc.) and territorial sovereignty. Property rights to land, therefore, are one of the primary arenas in which authority is negotiated in the uplands. Of course, there are other arenas where negotiations take place, such as development, personal security, and national defense. Yet none has witnessed as radical a shift in central government policy as property regarding land. The nation-wide program of land allocation stands for a radical turn-around in central government policy, replacing the focus on agricultural collectivization and forest nationalization in the 1960s to the mid-1980s. Local land allocations therefore offer unique opportunities to situate the authority of Vietnam's central government in relation to other politico-legal institutions.

The paper draws on ethnographic fieldwork on land allocations in two villages, one in the Northern Mountains and the other one in the Central Highlands. Both villages were the targets of international development projects implemented by the central government. The paper revisits the data collected in the course of the fieldwork to examine local struggles over property regarding land. The two cases, set in relation to the insights generated by other research, lay the foundations for a broader discussion of control over land in Vietnam's uplands. The paper concludes with thoughts on dynamics of property and authority in the uplands, Vietnam, and beyond. Yet before I turn to the cases, I want to discuss the major theoretical concepts and historical setting briefly.

### **Negotiating property and authority**

Property, broadly conceived, is about relationships among social actors regarding valuable objects (MacPherson 1978; Benda-Beckmann et al. 2006). Property involves various kinds of social actors recognized to take part in property relationships. Property objects are material and cultural goods considered as

valuable. Property relationships are often expressed in terms of rights and obligations. Property relationships, therefore, are economic and cultural at the same time (Shipton and Goheen 1992). They are economic because they are about the distribution of objects considered valuable. They are cultural because they establish categories of objects, actors, and social relationships.

In this paper, I am particularly interested in actual property relationships as those are constituted by property practices. By property practices, I refer to dealings among concrete social actors with regards to concrete goods (Benda-Beckmann and Benda-Beckmann 1999). I am interested in how people make, remake and unmake property relationships in their 'everyday' interactions, e.g., when they plant a crop, walk into a state forest, or tend their livestock on collectively-used pasture. Or in other words, I explore how people strive to get access to land recognized as property (Sikor and Lund, forthcoming). Access becomes property when social practices form more enduring relationships in the sense of actualized social relationships considered legitimate. The relationships, in turn, influence individual practices. It is this mutual constitution of property practices and social relationships that receives my primary interest. I am less interested in property legislation and ideologies in this paper.

A classical distinction in property research is the one between 'use' and 'control' (Benda-Beckmann 1995). 'Use rights' refer to those kinds of property relationships that are about the distribution of material and symbolic values among social actors. 'Control rights' are about the various types of capacities by which politico-legal institutions affect the use rights held by social actors. They denote control in the sense of "checking and directing action, the function or power of directing and regulating free action" (Rangan 1997: 72). Such control is concerned with the capacity to define the core elements of property relationships: the actors recognized to take part in property relationships, the objects considered to possess material and immaterial value, and the relationships considered legitimate (Benda-Beckmann 1995). In practice, it is enacted in many ways, including actions concerned with enforcement, rule-making, and dispute resolution (Agrawal and Ribot 1999). Yet underlying these actions is the capacity of politico-legal institutions to define the actors, objects, and relationships constituting property relations.

The exercise of control is closely linked with the practices and processes constituting authority. Authority refers to legitimate power – power being the capacity to influence others, by whatever mechanism. According to Weber (1976), authority implies an instance of power that is associated with at least a minimum of voluntary compliance, making it likely 'that a command with a specific content will be obeyed by a given group of persons' (28). In other words, authority characterizes the capacity of a politico-legal institution to influence social actors, capacity understood as a relationship between the institution and actors. Like property and control, I do not understand authority as a fixed attribute of a particular institution but as an emergent relationship constituted by and, in turn, influencing social practices (cf. Sikor and Lund, forthcoming). This is radically different from common usage of the term to refer to particular institutions as 'authorities', such as in 'local state authorities'. Furthermore, politico-legal institutions holding authority over social actors not only include state units but also a variety of institutions at a more distant

relationship with 'the state', such as village communities, religious groupings, and transnational legal norms.

Property practices are intimately bound up with practices constituting and unraveling authority (Lund 2002; Sikor and Lund, forthcoming). On the one hand, institutions grant or deny legitimacy to access claims on resources on the basis of their authority. Access claims are only recognized as property practices if politico-legal institutions sanction them. Or, in slightly more concrete terms, institutions influence negotiations over property because they exercise control rights (Benda-Beckmann 1995). On the other hand, property is one of the fields in which politico-legal institutions compete for legitimacy (Berry 1992; Lund 1992). The institutions seek out claims on resources to authorize as property in the attempt to solidify their power in relation to competitors.<sup>1</sup> Simply put, claimants seek out politico-legal institutions to authorize their claims, and politico-legal institutions look for claims to authorize (Sikor and Lund, forthcoming). The relationship is a dynamic one, as illustrated by the notions of 'forum shopping' and 'shopping forums' (Benda-Beckmann 1981). In the presence of competing forums for resolving disputes, contestants tend to 'shop' forums for dispute resolution, and forums actively shop for disputes in an effort to consolidate their authority.

Politico-legal institutions undertake a wide variety of actions to legitimate their authority. One particular strategy that has received particular attention in research on the Southeast Asian uplands is "internal territorialization" (Vandergest and Peluso 1995). In the vocabulary of this paper, internal territorialization may be understood as a process in which the exercise of authority move from control over labor and products to control over space. This process is driven by the territorial strategies of central governments, which attempt to affect, influence, or control people through control over space (cf. Sack 1986). The governments classify people and resources by geographical area, communicate both territorial boundaries and restrictions on activities within the boundaries, and enforce those. Yet governments' territorial control often remains an unstable project, as noted by Vandergest and Peluso (1995), because the "abstract space" (388) underlying territorial notions is different from the experienced spatial relations of people. In other words, the unstable nature of territorialization may reflect the existence of politico-legal institutions competing with the central government over authority, in the form of control over space or by other means.

Thus, the preceding discussion provides me with an analytical framework to look at property negotiations in Vietnam's uplands, setting those in relation to broader contestations over authority.<sup>2</sup> The framework allows me to examine land allocations in Vietnam's uplands, something I will do in the following sections by way of two case studies. My account will not give analytical priority to the strategies pursued by the central government or other state actors *a priori*. Instead, I will examine local-level negotiations about control over land in the uplands, establishing the control

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<sup>1</sup> This also implies that I do not understand legitimacy as a fixed attribute of a politico-legal institution or resource claim but as a social relationship that emerges from interactions among various social actors and politico-legal institutions (cf. Moore 1988).

<sup>2</sup> I want to point out that I do not look at one type of institution that exercises significant control over land: households. I am aware that a more complete account of control over land would need to look at the processes through which people influence their own use rights and those of other household members.

exercised by Vietnam's central government as a result of the analysis and not its premise. This approach, I argue, will later allow me to explore what control over land in the uplands implies for broader authority relations.

### **Situating upland struggles over land**

Negotiations about control over land in Vietnam's uplands take place under particular conditions. A review of the literature suggests that these conditions may set upland negotiations apart from those taking place in the lowlands, as property and authority relations in the uplands have historically differed from those existing in the lowlands.

A key feature setting property relations in the uplands apart from those in the lowlands noted in the literature is that people living in the uplands used land under a variety of 'customary' property arrangements tied to 'customary' politico-legal institutions well into the second half of the 20<sup>th</sup> century. The difference originated from several related factors. First, upland people long used land under a wide variety of local property arrangements associated with different forms of authority (Vuong and Dao 2000). In contrast, Vietnamese rulers unified and concentrated much control over land in the lowlands in their own hands (Lam 2002). Second, the French colonial regime never established a solid presence in most of the uplands but had established a land administration service in the lowlands (Thomas 1999; Michaud 2000; Salemink 2003). Third, after independence in 1954, northern Vietnamese government policy focused on control over people and products (instead of control over land). In addition, in the uplands the more moderate 'democratic reform' took the place of the more radical land reform implemented in the lowlands (Tran 1968). Collectivization was never as complete as in the lowlands (Michaud 2000), and the nationalization of forestland remained highly unstable (Sikor 2004; Sowerwine 2004). Fourth, the southern Vietnamese regime did not regulate property rights to land in the Central Highlands (Salemink 2003).

A second set of historical factors that may distinguish property relations in the uplands and lowlands relates to the exercise of authority by the central government. The uplands have been located along important international borders of the Vietnamese nation-state, connecting control over land in the uplands to issues of national sovereignty (Rambo and Jamieson 2003). In addition, the governments of colonial and independent Vietnam have portrayed the uplands as locations of important watersheds and nature habitats for a century by now in accordance with international discourses (Thomas 1999; Rambo and Jamieson 2003). These discourses have lent legitimacy to land policies which accord the central government more direct control over land in the uplands than in the lowlands. The attempts at direct control by the central government have taken a variety of forms, ranging from the designation of forestry land outside the control of local authorities to protected areas managed by the central ministry and resettlement zones sponsored by the central government (Sowerwine 2004; Zingerli 2005; Hardy 2003).

These historical and contemporary features may set upland negotiations over land apart from those taking place in the lowlands. They may offer a way to de-naturalize the common distinction between uplands and lowlands based on topography and resurrect it on the basis of historical differences in property and authority relations. Yet they may also highlight differences within the uplands, and commonalities

between places in the uplands and lowlands – questioning the sharp divide between uplands and lowlands. On the background of these two contrasting propositions, I now turn to the analysis of upland land allocations.

### **Upland struggles over land: two case studies**

I look at two instantiations of land allocation. These originate from a Thai village in Son La and an Ede village in Dak Lak. The two villages relate to two of the largest ethnic minority groups in Vietnam and are situated in the two major upland regions, the northern mountains and Central Highlands. More importantly, they stand for different historical relations between ethnic groups and the governments of colonial and independent Vietnam. Thai and Ede took on different customary property relations, assumed different roles in the wars for national liberation, and developed different relations with the Vietnamese nation-state. This is not meant to imply, however, that the villages are representative of the uplands in any statistical sense.

#### Overlapping control over land in Na Pan

Na Pan is a village of 170 Black Thai households in Vietnam's north-western mountains.<sup>3</sup> In the early 1990s, villagers gained use rights to land in multiple ways. The village community regulated the use of the paddy fields in the valley, which produced a large share of the food staple rice. In 1988 and 1992, it had redistributed wet-rice fields among all households, determining household shares on the basis of the people living in them. In contrast, the village community did not play a significant role in the use of the cropping land in the uplands. Household fields depended on what households had cleared over the past two decades and what they received from and transferred to other villagers in mutual agreements. Many households had also constructed rice terraces, which were exempted from collective redistribution and could be sold to others. The district authorities, finally, collected agricultural taxes from villagers and zoned a large part of the uplands as protection forest. Nonetheless, the Forest Protection Unit had allowed logging by a local company in the late 1980s. Also, it had not been able to stop villagers from cultivating fields, grazing livestock, and cutting trees on the forestry land.

This brief discussion indicates that control rights over land rested with multiple politico-legal institutions before land allocation. In addition, the exercise of the control rights by the village community and various state agencies emphasized the negotiation of property claims among actors. All households were entitled to land in the valley and uplands based on their village membership. The concrete claims recognized for a household depended on negotiations in the village community (in the case of wet-rice fields) and between households (in the case of upland fields). The boundaries between cropping, animal husbandry, and forestry in the uplands were rather fluid, defying repeated attempts by the Forest Protection Unit to define a large part of the uplands as a single, unified property object 'forestry land'.

The 1994 land allocation had the potential to put an end to these flexible negotiations over property. After all, the provincial People's Committee had instructed the district

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<sup>3</sup> I can only offer a brief discussion of property and authority relations in the village here. More extensive discussions of the local setting, land allocation, property relations, and land use dynamics can be found in Sikor (2004a, 2004b, 2006a, 2006b).

authorities to set aside much of the uplands as forestry land and allocate wet-rice and upland fields to individual households for a period of twenty years. Yet the villagers of Na Pan resisted allocation through open protest and everyday forms, as did many other Black Thai villages. Because of village leaders' protest the land certificates did not include wet-rice fields when the district's Land Administration Office eventually issued them. Above all, villagers largely ignored the new regulations in their everyday dealings. The village community redistributed wet-rice fields again in 1997, despite the provision in the 1993 Land Law that allocation would be binding for twenty years. The villagers also continued to modify their upland fields and use the uplands for cultivation and animal husbandry as before.

Villagers defied the massive assertion of control over land by state actors connected with land allocation. Opposing land allocation, they not only thought of its implications for use rights to land but also its potential effects on control over land. Village leaders and most villagers recognized the threat posed by the new legislation for the control rights of the village community over land. Village leaders voiced their concern that individual households might utilize the land certificates – if they received those in the process of allocation – to fend off claims by the village community in the future. In consequence, they vigorously opposed the definition of wet-rice fields in land certificates because that challenged the control rights held by the village community. Their concerns even found the backing of state officials from the commune to the provincial level. The officials not only voiced support for the common practice in Black Thai villages to periodically redistribute wet-rice fields, but they also accepted that village communities would decide about that on their own – even though that was in contradiction with the new land legislation.

Villagers resisted the long-term allocation of wet-rice land because it would have terminated the capacity of the village community to define the actors entitled to use the village paddy land and associated property relationships. Allocation meant that the village community would have to discontinue the periodic reallocation of wet-rice fields in the valley. By way of reallocation, the village community provided all households equitable access to the wet-rice fields, which were the most important source of food. 'Equity' was the unanimous reason given to me when I asked village leaders and common villagers about their motivations to conduct another reallocation in 1997. This equity, obviously, did not extend to outsiders, who were not allowed to work Na Pan's wet-rice fields. Use rights depended on belonging to the village, in contrast to the formal procedures contained in the 1993 Land Law.

People also refused to accept the definition of property objects implied in the intended demarcation of forestry land. The demarcation would have terminated the flexible use of the uplands for cultivation, livestock husbandry, and forestry, replacing it with a singular definition as forestry land. For people, uplands could not be carved up into single-purpose categories as legislated by the central government but needed to accommodate overlapping and changing uses. Moreover, they wanted to retain their customary capacity to define legitimate uses of the uplands, rejecting the attempt by the Forest Protection Unit to assert control. Villagers, therefore, continued to find ways to get forest officers to recognize their use rights to the uplands. The total area of agricultural fields continued to expand in the years after allocation by one quarter, exceeding the allocated area by seventy per cent. Despite this massive expansion, the Forest Protection Unit fined virtually no household for

violating forest protection regulations. The Unit instead pursued a cooperative approach, defining the nature of property objects in mutual negotiations with villagers.

Just as villagers and forest officers went on negotiating the definition of legitimate uses of the uplands, villagers continued to decide the distribution of rights within the village in flexible negotiations based on their customary arrangements. Villagers not only adjusted the boundaries between individual fields in flexible negotiations but also transferred plots among each other. The villagers ignored the new procedures, in particular the requirement to get land transactions registered in their certificates by the district's Office for Land Administration. What mattered to them was that the land certificates attested to their right to use some share of the uplands – and that is why they all kept the land certificates locked in their wooden boxes. Yet when they needed a new field or wanted to expand their existing field, they talked directly to other households. And if they could not agree with another household and a dispute developed, they called upon the village community to resolve the issue and normally accepted the judgment made by village leaders on the community's behalf. Villagers, therefore, wanted to retain the capacity to define the recognized kinds of rights under their own customary arrangements.

In sum, land allocation in Na Pan brought to light struggles over property that usually take place in less visible and concentrated forms. Central to these struggles were contestations about control over land, involving negotiations over entitled actors, recognized objects, and legitimate rights. Bolstered by national legislation and the directives sent down by the provincial People's Committee the district authorities sought to assert control over land by way of land allocation. Villagers responded by upholding the control exercised by the village community over paddy land and by their own customary arrangements over the uplands. Yet villagers never challenged the rights of the district authorities to collect taxes on agricultural land and conclude contracts about forest protection. As a result, control over land continued to be overlapping and flexible, involving multiple politico-legal institutions.

### Contesting control over land in Cham B

Cham B is a village of 38 Ede households in Vietnam's Central Highlands.<sup>4</sup> By the late 1990s, the State Forest Enterprise of Krong Bong exerted significant influence on villagers' access to surrounding forests. The Enterprise prohibited the use of forests for shifting cultivation and enforced this through a small control post built next to Cham B. The Enterprise also had the legal mandate to prevent local people from cutting trees. The Enterprise, however, did not care about firewood and other non-timber forest products, which were collected by the Ede from Cham B and surrounding villages as well as ethnic Vietnamese migrants, who had settled in Cham B and neighboring villages during the 1990s.

Nevertheless, the Enterprise' actual control over the forests was limited in practice. First, there was plenty of space for local people to negotiate with the Enterprise staff. As a result, Ede and ethnic Vietnamese found ways to extract timber from the forests. Second, the 'traditional village headman' and 'state village headman', two village

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<sup>4</sup> Please see Tran (2006), Tran and Sikor (2006) and Sikor and Tran (2007) for more detail on the dynamics of land allocation in Cham B.

leaders chosen by villagers and appointed by the local government respectively, retained significant control rights over land. When there was a serious dispute about agricultural land, villagers would resort to them for its resolution. In addition, villagers expected particularly the traditional headman to assume an important function regarding forest. In the past, he had always be the one who would endorse a household's claim on a particular forest parcel and inform villagers about existing claims on the forest based on prior use. This was especially relevant for forests that had been used by villagers before, which was the case for the forest sought out by Krong Bong Enterprise in 2000 for allocation.

Krong Bong Enterprise allocated the forest block of 570 ha to the Ede households of Cham B. As advised by the provincial authorities, the Enterprise demarcated five parcels with signs posted in the forest, requested the Ede to form five groups, and arranged for the issuance of land use right certificates to the groups. The Enterprise also compelled the groups to sign protection contracts, in which those committed to follow practices of good forest management, obtain a permit before any timber logging, and keep other people out. In this way, allocation implied a massive expansion in the use rights conferred to local people. At the same time, it sought to limit the use rights to one particular group only: the Ede from Cham B.

Nevertheless, what was at stake after allocation in Cham B was not only use rights but also control over land. Allocation brought about a massive assertion of control over forest by Krong Bong Enterprise and the commune authorities. The two state units made all important decisions in the allocation process. As for the future, the commune and district authorities would be the politico-legal institutions which would assume most control rights over the allocated forest according to the regulations sent down by the provincial People's Committee, i.e., define the actors, objects, and relationships constituting property relations. The Enterprise would have to cease its control over the forest, being replaced by the district Forest Protection Unit. Furthermore, allocation did not acknowledge the customary role of the traditional village headman. He was to be replaced by user groups as new intra-village institutions exercising control over land and being accountable to the district authorities.

The villagers recognized the shift in control over land towards state actors. They saw control rights over the forest shift toward the positions recognized by statutory law, reducing the control rights held by the traditional headman. In their assessment (see Table 1), all three state entities increased their influence – including the Enterprise even though allocation had presumably put an end to its control over the forest.

**Table 1:** Villagers' assessment of control rights in forest management

Position of authority	Before Allocation	After Allocation
Commune authorities	11.7	17.0
State forest enterprise	12.2	14.8
State village headman	11.8	13.1
Traditional village headman	11.8	8.0
Forest user group	-	2.0

Source: Tran 2006 (pebble ranking conducted as part of household interviews).

Ede and ethnic Vietnamese reacted to the perceived shift in control rights in different ways. Above all, they contested the implied re-definition of actors entitled to the forestry land and associated resources. As for access to land for cultivation, Ede from the neighboring Cham A insisted on their rights to the allocated forestry land on grounds of previous use and their belonging to the area well established in local customary arrangements.<sup>5</sup> Together with households from Cham B they had cultivated fields in the forest in the early 1970s. When they saw households from Cham B clear fields, they did not accept their exclusion from the forest and opened up fields themselves. At the same time, the ensuing rush on the forest caused other households from both villages to equally assert use rights to the forest, independent of the fact if they had cultivated fields in the past or not. As a result, serious conflicts developed among villagers from both Cham B and Cham A. These conflicts were concerned as much with competing use claims as with contestations about control over the land.

As the conflicts became more serious, villagers also turned to commune and district authorities for their resolution. Some of them proposed that Ede from Cham B and Cham A should receive different kinds of use rights to the allocated forest. The local authorities could grant short-term use rights to Ede with pre-existing claims from Cham A, allowing them to complete the current cycle of cultivation. In return, the households from Cham A would have to forego any claims on the land in the future. In this way, villagers requested the commune and district administrations to back up a solution to the conflicts. Villagers had developed this solution and deemed it viable, yet they wanted local state units to throw their weight behind it. In contrast to Na Pan, they did not expect to solve the problem solely on the basis of customary control over land, according local state units much more extensive control rights.

A primary reason for villagers from Cham B to seek endorsement by state units was the presence of migrants in the area. Even though the ethnic Vietnamese migrants accepted that they could not open up agricultural fields in the allocated forest, they refused to give up their use rights to trees in the forest. In fact, they reacted to allocation by logging larger amounts of timber and asserted their rights to harvest trees established in a customary manner. The migrants feared to lose the use rights that they had been able to negotiate with the Enterprise and Ede in the past. The Ede, in turn, perceived allocation as an opportunity to terminate extraction of trees by the migrants. After all, they had committed themselves to protecting the forest from encroachment by outsiders in the course of allocation. As a result, they sought to enlist the support of local state units, redefining the previously separate property objects 'trees' and 'land' into the single category 'forestry land'.

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<sup>5</sup> An interesting exception were a few commune officials from Cham A who did not clear fields in the allocated forest, although they could claim use rights due to prior use. They said that they did not want to open fields because that would have violated the rules of allocation. In contrast to their fellow villagers, the commune officials perceived the state as more important than customary regulations as alternative justifications of claims of land – even if this eventually implied that they 'lost out' in the rush on the forest.

Just as they sought to redefine property objects, Ede villagers also attempted to modify the definition of property rights by linking up with particular state units. Villagers from Cham B called for changing the logging permit system by giving the commune authorities a larger role. They argued that the current system was too complicated, requiring them to obtain the signatures not only from the state village headman and commune authorities but also the district's Forest Protection Unit, which was a long trip away. In addition, it was obvious that villagers resented the control exercised by the specialized forest protection units, whether State Forest Enterprise or Forest Protection Unit. The district's People's Committee should instead empower the commune authorities to issue permits for small-scale logging restricted to subsistence uses.

Many villagers, therefore, sought to shift control over forestry land to the commune administration in the hope that it would sanction desirable use rights in the future. Nevertheless, they also resorted to the traditional village headman for the exercise of one particular control right: the resolution of disputes among households in the village. The conflicts ensuing after allocation had caused many of them to seek help from the traditional village headman. Villagers continued to rely on him as the primary authority for resolving property conflicts. The traditional village headman emerged strong from land allocation, even though that was designed to do away with his authority over land.

In sum, land allocation provoked intense negotiations among local actors in Cham B. Although the negotiations were apparently concerned with the distribution and nature of use rights to the allocated forestry land, they had profound implications for the distribution of control over the land. Control over the allocated forest was highly contested by Ede and ethnic Vietnamese migrants, in particular the question of what politico-legal institutions had the capacity to decide about the legitimate users of the forest. As Ede villagers increasingly reverted to the commune administration in their efforts to enlist support for their use claims, control over land shifted gradually towards state units.

### **Negotiating control over land in Vietnam's uplands**

What do these cases, set in relation to related research, tell us about control over land in Vietnam's uplands? Above all, the cases unearth a staggering volatility of control. The intensity of the ongoing negotiations over property keeps control over land fragile. A variety of politico-legal institutions compete for control over land, offering alternative justifications for claims on land. State units at local and central levels endorse and reject land claims through their legal texts and cadres. Village communities influence property claims either through concrete persons, such as village headmen, or by way of more diffuse deliberative processes. Finally, beyond individual villages, people may reference their land claims to customary regulations or broader social norms, such as equity or prior occupation.

A consequence of this volatility is that the distribution of control among politico-legal institutions displays astonishing variation at any point in time and may quickly

unravel when circumstances change.<sup>6</sup> In the second half of the 1990s, the village community remained the dominant institution exercising control over land in Na Pan. The control rights accorded to state actors were limited, in particular those held by central-level units of the state. In contrast, in Cham B control over land used to be shared between the State Forest Enterprise and customary arrangements in the late 1990s. The situation changed rapidly, however, when people heard about the allocation plan. The plan threw the previous relations of control over land up into the air, moving them to the center of intense negotiations among local people and various units of the state.

Moving beyond the two cases, this fluidity of control over land became apparent in the course of the widely-noticed conflicts over agricultural land in Vietnam's northernmost provinces in the late 1980s and early 1990s. Particularly in Lang Son province, many disputes arose about the question whether to distribute agricultural land among local households or reconstitute it to historical owners (Institute of Ethnology 1993; Mellac 1997). The issue possessed explosive potential because many people and entire villages had moved within the region or migrated to it in the 1960s and 1970s. Some local people demanded the distribution of fields to the current population in accordance with national land legislation. Other people argued that customary land regulations at and above the village level entitled them to reclaim the fields that they themselves or their parents had worked before collectivization. Many villagers, therefore, ended up deliberating the decision whether to distribute or reconstitute among each other (Scott 2000). Their decisions were not only about the distribution of use rights between and within villages, but also about the influence of competing politico-legal institutions. Therefore, when their deliberations resulted in a variety of distributions, the variation reflected the volatility of control over land, in particular the varying significance of state actors, customary arrangements above the village level, and village institutions at that point.

The comparison shows that there are multiple politico-legal institutions exercising control over land, and that those are situated in relation to 'the state' in different ways. In Na Pan, the village community exercised important control rights over upland fields.<sup>7</sup> If there was a dispute, people called upon village leaders to arbitrate, even where the conflict involved people from different villages. Yet even more importantly, the village community re-allocated the village paddy among village households every few years. In Cham B, the village community, customary land regulations, and broader social norms all served local people to justify claims on land at some point in time. The concrete influence of these institutions may wax and wane over time, yet they remain available to local people as potential points of reference for land claims. Moreover, they may not necessarily be in an antagonistic relationship with the multiple actors making up 'the state' (Sikor 2004b).

Furthermore, politico-legal institutions entertaining more distant relations with the central government, the relevant line agencies and local governments not only exist at the local level. Within Vietnam, various kinds of organizations engaged in research, advocacy, and development work related to the uplands assume an increasingly important role offering material and immaterial support for land claims in

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<sup>6</sup> My account emphasizes changes in the distribution of control. Nevertheless, as pointed out by Jennifer Sowerwine, the nature of control also changes over time and varies between localities.

<sup>7</sup> I examine the factors facilitating the extraordinary 'autonomy' of the Thai villages in Sikor (2004b).

the uplands (Gray 1999). Looking beyond Vietnam, there are many multi- and bilateral donor organizations, which finance development projects in Vietnam's uplands and bring along international framings of legitimate claims on land (cf. Zingerli 2005). In addition, transnational conventions on human and indigenous rights endorse some land claims for some uplanders but do not offer equal justification for others (Salemink 2006). Similarly, refugee organizations provide international visibility to some claims in the uplands, enhancing their legitimacy by connecting them with international norms (Salemink 2004).

The insights derived from the two case studies also indicate that various units of the state assert control rights over land. In Na Pan, local state actors at district and provincial levels actively supported the control held by village communities. They even found ways to accommodate village practices even where those are in direct conflict with national regulations. In Cham B, the State Forest Enterprise, commune authorities, and district People's Committee all participated in the negotiations over property. In addition, the central government and provincial People's Committee sent down regulations and instructions to assert control over land. Thus, both case studies indicate the strong presence of central government agencies in the uplands, in the form of State Forest Enterprises and regulations on forestry land.

Different state actors may compete for control over land with each other. Competition may occur between state units located at the central and local levels or between units at the same level. As a result, state units may sanction overlapping or conflicting claims on land and associated resources, as illustrated by research in Ba Vi commune (Sowerwine 2004; To, this volume). There, villagers asserted use rights to forestland on the basis of past state programs in opposition to a more recent demarcation of the land as protected forest. They claimed use rights to forest on the basis of tree planting agreements concluded under a project implemented by the district authorities with support by the World Food Program in the late 1980s, a deal over a pine tree plantation signed by the commune People's Committee, and reforestation contracts issued by the national park administration under a 'Decree 327 project'. As a result, people's land claims were overlapping and conflicting, even if one considers those referenced to state actors only.<sup>8</sup>

Finally, one may ask if control over land takes on a territorial form in Vietnam's uplands. Do the empirical insights about control over land indicate that a trend of internal territorialization is taking place? As for Na Pan, control over land became more territorial, as the boundaries between villages in the uplands firmed up. In this way, the control held by the village community increasingly assumed a territorial form, expanding from its previous basis (the village paddy) and into the 'village uplands'. Yet, the exercise of control within the village remained astonishingly non-territorial, as the right to a certain share in village land continued to depend on household size, and because the spatial parameters of household shares remained subject to constant adjustments. In Cham B, the territorial nature of control over land was one of the key issues under negotiation. Bolstered by allocation, Cham B villagers argued that their fellows from Cham A were no longer entitled to open agricultural

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<sup>8</sup> Research has yet to look at two other issues that brought conflicts between local and central state actors to the surface: attempts by the central government to 'reform' State Forest Enterprises (implying a loss of control over land for many Enterprises) and negotiations between the central government and provincial People's Committees about control over protected areas.

fields and that Kinh and H'mong migrants should stop cutting timber in the allocated forest. They wanted to draw a line around the forest and be in control of the land and associated resources.

Territoriality, therefore, emerges as a key issue in contestations about control over land in Vietnam's uplands. Nevertheless, this does not imply that the central government is the major driver of internal territorialization. Territorialities originate in practice from a much broader range of processes than the actions of the central government. Politico-legal institutions, such as the village community in Na Pan, may promote spatially defined notions of control over land. In addition, as To (2007) reminds us, land markets may be much more powerful forces driving territorialization and the extension of state control over land than the actions undertaken by the central government. In Ba Vi, urban demand for recreation houses exerted a stronger influence on the nature of control over land than all central government programs taken together.

### **Conclusions: dynamics of property and authority in the uplands, Vietnam, and beyond**

Vietnam's land allocations have brought to light negotiations over property regarding land which usually take place in a less visible manner. These negotiations are likely to remain a persistent feature of rural change in Vietnam, even after the central government should one day declare the nation-wide program of land allocation as complete. Rural people and other actors will continue to struggle over property regarding land as they react to new market opportunities, government actions, subsistence needs, consumptive desires, and social values. These struggles will consolidate, modify, and destabilize control over land, generating repercussions at local, national, and international levels.

The empirical insights indicate how negotiations over property regarding land intersect with broader practices and processes constituting authority in Vietnam and beyond. Control over land is a primary arena in which authority is being contested. Land continues to be a primary productive resource and assumes symbolic significance for many people living in rural areas. In addition, control over land remains an important preoccupation for central governments for reasons of national sovereignty, taxation and environmental protection. At the same time, the linkages between property and authority are mediated by contestations in other fields, as property regarding land is only one field in which authority is formed, consolidated, modified, and unraveled. The processes constituting authority in other fields, such as development, may be different from those shaping control over land. In addition, the relative significance of control over land as a source of authority may change with time.

Moreover, I surmise that attention to authority allows us to explore how local-level negotiations over property are connected with larger processes operating at national and international levels. The connections work in both directions. On the one hand, actors at the national and international levels influence upland struggles by endorsing some claims on land and rejecting others. Central governments, of course, are a primary actor, as they tend to be preoccupied with efforts to consolidate and expand their control over land. Yet they may be far from a

monopolizing position, calling attention to the presence of politico-legal institutions offering competing sanctions for land claims. These competing institutions include international development organizations, as property figures high in their project interventions and policy strategies. Yet there are many more actors. Struggles over land have attracted attention by a variety of domestic and international organizations, such as international rights activities, and transnational institutions, such as international conventions on human rights.

On the other hand, negotiations over property regarding land influence contestations over authority occurring at national and international scales. Control over land is an important subject in national politics for reasons of taxation, national defense and control over natural resources. This became very apparent in Vietnam in the early 2000s, when international refugee organizations incorporated struggles over land taking place in the Central Highlands in their cases against the Vietnamese government (Salemink 2004). More generally, negotiations over property regarding land serve to justify new strategies and projects pursued by international development organizations, such as 'customary land titling' (cf. World Bank 2004).

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