

# Effects of the Land Allocation Process and Market-Oriented Economy on Common Grazing Land of Ethnic Minorities in Northwest Vietnam

by  
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## Abstract

Grazing lands can be described as typical common-pool resources in Northwest Vietnam's mountainous areas. The traditional common property regimes governing land tenure have undergone several transformations since the victory of the communist Vietnamese over the French in 1954. The collectivization process initiated in the 1970s led to a supply bottleneck due to insufficient agricultural production inducing the de-collectivization process and eventually 'doi moi', an economically and politically opening policy. Today, land resources are utilized in a post 'doi moi' and gradually market oriented environment and land tenure systems have fundamentally been altered by the 1993 Land Law. The land reform launched a process of allocating individualized long-term use rights for agricultural land to all households. At the same time the state has tightened its grip on control over land use patterns in order to fulfill the default development plans and goals.

The objectives of this paper<sup>2</sup> are to present the impact of political and economic changes and innovations on the existence and tenure of common grazing land in the agricultural systems of Black Thai and Hmong peoples in Northwest Vietnam. Furthermore, driving forces behind the fundamental changes in the use of common land are identified and the effects of a significant decrease of common land are valued. Quantitative and qualitative research, including individual as well as group interviews and participant observation, was carried out between 2003-2005 in 3 Black Thai and 3 Hmong villages in mountainous Northwest Vietnam.

Results suggest that the land allocation process since 1993 and the gradual orientation towards market production with cash crops (e.g. maize and cotton) cause a significant reduction of common land used for grazing ruminants. The doubled population together with the expansion and intensification of agriculture put even more pressure on the common land. After an equal area of agricultural land were allocated to each household proportionate to the number of household members and the declaration of vast areas as protection forest common grazing land was diminished or even disappeared in the study area. Additionally, in the Socialist Republic of Vietnam, common property systems are not formally recognized by state law and no legal base exists to protect the access and use rights on common land. Consequently, commonly used grazing land is governed by informal customary laws unofficially tolerated by local authorities.

The conclusion is that the importance of and interest in common grazing land is decreasing due to individualized land use rights and increasing market production. The role of common grazing land and ruminant raising in local farming systems is minor compared to the possible income generated by cash cropping. Finally, without recognition of common-property regimes by state law a sustainable use and management of common grazing land is not viable.

*Keywords: Common-pool Resources, Land Rights, Legal Pluralism, Vietnam*

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# 1 Introduction

## 1.1 Problem Statement

From the 1980's onwards, the Communist Party of Vietnam set for reforms known as 'doi-moi' ("renovation") with the general aim of stimulating the national economy, especially agricultural production, to overcome famine and economic stagnation. The policies opened Vietnam politically and economically. But the internal power structures continue to form a polity with pervasive state influence and control on economic, political and cultural matters; also in peripheral mountain areas. The process allocating individual land use rights to households since 1993, the agricultural intensification and expansion as well as the dramatic population growth result in a dynamic of natural resource tenure. Particularly, commonly used resources are objects of changes in access, use and management. As a consequence of the allocation of individual land use rights in Vietnam the area of common grazing land and the potential of keeping ruminants is decreasing.

Grazing land is a typical common-pool resource (CPR) (Ostrom, 2001; Gordon, 1954; Bromley, 1992) of Vietnam's uplands governed by common property regimes. The land reform of 1993 led to the individualization of land tenure and management whereas an increasing area has been declared as forest, and thus are not allowed for cultivation (Sikor, 1998). In less densely populated areas forest land still plays a role as common-pool resource used as grazing land.

At the same time as the state foster individual use rights for natural resources it also has tightened its grip on control over land and water use and has invested in infrastructure construction in order to fulfill the development plans defaulted by the government.

From the facts mentioned above we can derive that tenure niches for communal resource management (e.g. management of grazing land) risk to become undermined by current state policies and economic as well as social transformation. Thus, this study intends

1. to identify current institutional and legal settings of grazing land management and tenure,
2. to illustrate the dynamic of rights on common grazing land, and
3. to analyze the impact of economic and political changes in Vietnam on the tenure systems in upland areas of North Vietnam.

## 1.2 *Conceptual Framework*

The study explores the role of common-pool resources (CPR) in local resource tenure and management systems. The theoretical approach builds on the following definitions and concepts:

1. Common Property Regimes – Common-Pool Resources (CPR)
2. Collective Action Theory
3. Legal Pluralism

Based on Ostrom (2001) three main sources of misconceptions regarding **common property regimes** can be distinguished and are relevant for F1.2 in Vietnam. (1) We differentiate between common property and open access regimes. In Yen Chau district we identified the right of user communities to exclude others from using water and grazing land as well as rules and regulations for resource use and no open access regimes concerning CPR's could be identified. (2) We distinguish between common property resources and common property regimes because a commonly used resource system can be under various property regimes. In this research water and common grazing land are described as *common-pool resources* and not *common property resources*. Following Darhuisen et al. (2000), we define common-pool resources as finite resources commonly used within a geographic area. Therefore, CPR's are to be differentiated from public goods with the characteristics of non-excludability and infinity. (3) Our research approach distinguishes between the resource system and the flow of resource units. Especially concerning consumption water in selected villages, we found the resource systems (groundwater wells and pipe systems from a natural source) under a common property regime whereas partly private rights were assigned to the resource unit "water".

The second concept, **collective action theory**, is used to identify and to understand the collective actions of the selected communities. Following Meinzen-Dick (2004, p.1) collective action can be defined as "*voluntary action taken by a group to achieve common interests*". In the context of natural resource management the collective action of deciding on and observing rules for use or non-use of a resource can take place through common property regimes or by coordinating activities across individual farms. Since this part of the research applies a sociologically focused approach it is looked at the behaviour of groups and individuals, their motivation to collective and non-collective action, and organisation of groups and communities.

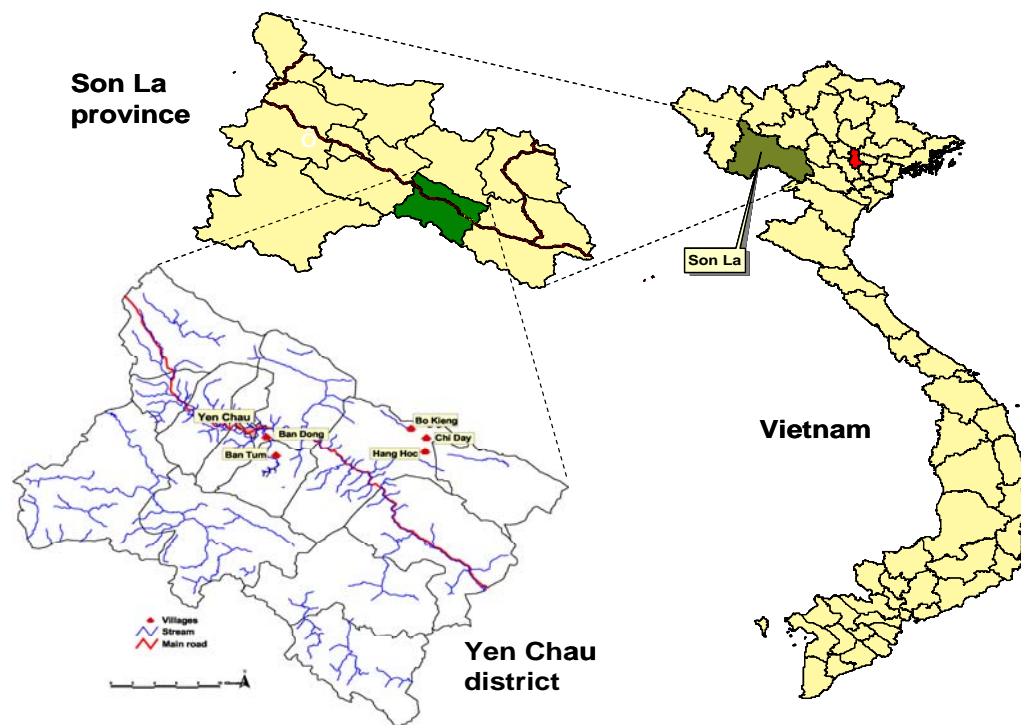
A multitude of ministries and departments on different administrative levels as well as national and customary legal settings are involved in the control of land resources in the study area. In order to analyze the multifaceted legal and institutional environment we use the concept of **legal pluralism** defined as “*the coexistence and interaction of multiple orders within a social setting or domain of social life*” (Meinzen-Dick, 2002, p. 8).

## 2 Methods

### 2.1 Research Area and Village Selection

The study was conducted in Yen Chau district, Son La province, in Northwest Vietnam. The fieldwork was carried out from February 2004 to July 2005 in 4 communes and 6 villages (3 Black Thai and 3 Hmong villages) in the district of Yen Chau. The examined villages were selected to provide a framework facilitating inter- and intra-ethnic comparison and analysis of data considering geographic, land use and socio-cultural patterns as well as interdisciplinary cooperation with partner projects. For this paper two representative villages were selected.

Fig.1:



Black Thai settlements in Northwest Vietnam exist since at least 1000 years and are located in valleys with sufficient water supply to irrigate the system of paddy fields and aquaculture. On their migration the Thai-Tay groups followed the rivers and valleys in a southern direction into the nowadays Southeast Asian countries. Besides irrigated rice as the staple crop Black Thai farmers also use upland fields to plant predominantly maize, cassava, cotton, and potatoes. Thai community areas dispose of sufficient water supply all year round and suitable land and soil characteristics to cultivate paddy rice. Thai groups are sedentary and cultivate land for hundreds of years. Because of the location of settlements in valleys and consequently better accessibility the Thai were in close contact and exchange with different sub- and super-ordinated ethnic groups. When the Communist Party of Vietnam (CPV) began to establish a far reaching administrative system as far as to village levels, the Thai were penetrated faster and more intensive than highland settlers. Black Thai villages developed to be economic and administrative centers in Northwest Vietnam. Following this development, many Kinh migrated into formerly Thai dominated areas and functioned as entrepreneurs and/or government officials (staff, soldiers, police, etc). Therefore, Thai people have better access to information and governmental organizations and institutions (e.g. schools, CPV, hospital, administration). They also make up a significant part of the administrative positions in commune and district centers and in the local CPV-cells.

Hmong settlements in this area were built up around 150 years ago when a south-bound migration of Hmong started in Yunnan/China. Traditionally, Hmong are swiddeners (slash-and-burn agriculture) and do not cultivate wet rice but upland rice. They clear areas of highland forest to set up new agricultural land. When natural resources begin to decrease the village or at least parts of the village move on to find a new suitable forest area to cut trees and cultivate crops. This agricultural system implies semi-sedentariness. In recent decades the Vietnamese government forced all semi-nomadic ethnic minorities to move to permanent settlements which resulted in a change of agricultural practices. The geographical location and the very limited water resources of Hmong communities in the highlands of Yen Chau with steep and rocky fields do not allow wet rice cultivation while in the dry season Hmong communities suffer a serious lack of water. In contrast to Black Thai communities, Hmong in Yen Chau rarely have paddy fields but vast areas of upland fields and forest resources. Currently, upland fields are predominantly used for maize as the main cash crop and the upland rice production was reduced significantly. The use of forest areas is officially strictly regulated and limited by government. The relative remoteness and inaccessibility of Hmong settlements made it difficult for the Vietnamese government to establish far reaching

administrative branches and to “successfully” integrate Hmong people into the socialist state. Hmong kinsmen are rarely represented in commune or district People’s Committees and access to governmental institutions and information is limited. Still, many Hmong cannot communicate in languages other than Hmong or Thai and lack formal education.

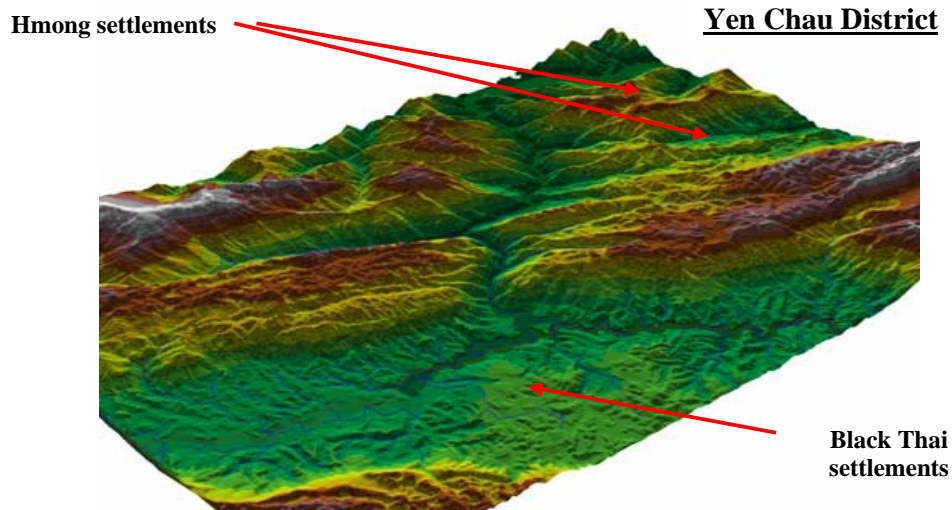
Table 1:

	<b>Ban Tum</b>	<b>Hang Hoc</b>
Province	Son La	Son La
Ethnic Group	Black Thai	Hmong
Altitude (masl)	400-500	700
Population	560 (119 HH)	134 (27 HH)
Market access	Good	limited
Main crops	Paddy rice, cassava, maize	Maize, cassava

The village **Ban Tum** is located on a mid-level plateau on c. 400 m altitudes between a steep mountain range and the valley of Yen Chau. It belongs to the Chieng Khoi commune, Yen Chau district, Son La province of Vietnam and Black Thai settlements in this area have a history of many hundreds of years. The flat plateau is exclusively used for paddy rice cultivation and the peripheral upland fields at the slopes for cropping maize, cassava and some cotton. The land allocation process has been completed in 1999 and equitable shares of agricultural land according to land category and number of household members have been allocated to all households. The Chieng Khoi commune is well endowed with water resources and the Chieng Khoi Lake (artificial dam, built in 1974) provides water for 2 rice crops/year on the plateau. Every household has paddy and upland fields as well as fish ponds. Aquaculture plays traditionally an important role in the agricultural system of the village. Ban Tum is accessible on a 3 km dirt road from Yen Chau district centre and therefore the market access can be described as good. Paddy rice is socio-cultural as well as agro-economical the most important crop and predominantly produced for home consumption and only some surplus rice is sold at the market. Maize and cotton are the only crops exclusively produced for market supply; however, the area under maize and cotton of Ban Tum is comparatively small. As agricultural production is almost the only possibility to generate cash income, the farmers of Ban Tum are highly interested in gradually increasing their production, especially of cash crops. Thus, agricultural area is increasingly expanded for market production. Grazing land for ruminants decreased significantly and common pastures disappeared completely.

The village **Hang Hoc** is located in a remote high valley on about 700 m altitude. It belongs to Chieng Hac commune of Yen Chau district where Hmong settlements were established around 60 years ago. Hang Hoc was founded by farmers from a nearby village in the 1980s in order to explore new agricultural land. Agricultural practices and land use patterns changed dramatically in the past 15 years because of detailed land and forest policy making. Formerly, agricultural land has been used for upland rice and cassava cultivation on a subsistence base but since 1995 maize for market production was introduced. Consequently, almost the complete area for agricultural use was converted into maize fields. Rice cultivation is abandoned and the rice supply must be purchased through maize revenues. The usage of land and even forest resources for expanding maize cultivation areas leads to a considerable reduction of grazing land.

Fig.2:



## **2.2 Methods for Data Collection**

While quantitative and qualitative approaches are often seen to be opposing, here both methods were used in a complementary way. Qualitative methods are flexible and allowed us to adapt hypotheses and methods to the local situation. *Open and semi-structured interviews* with key-persons and focus groups were conducted to collect data on different administrative and hierarchical levels. Additionally, selected *Participatory Rural Appraisal (PRA)* tools were used in several interview sessions. Quantitative data were collected by *standardised questionnaires* in an exploratory field-phase and ongoing household and village surveys to get information about demographic and socio-economic facts as well as land use patterns.

Several *field walks* in all villages took place to get an overview over the geographical and agricultural settings. Further on, *field observation* during overnight stays and *participatory observation* of meetings were part of the applied methods. Another vital part of the applied methodology is the use of *oral history*. Interviews with key persons and elders were held to collect data on the historical course grazing land tenure and management. *Key event analysis* and *historical analysis* provide a time dimension which is of importance to understand and identify dynamics and factors of changes of CPR tenure.

Geographical and structural conditions of water sources and grazing land, e.g. location, size, and the existing components of irrigation systems (weirs, canals, dams) were recorded with a *GPS* (Global Positioning System)-device and processed with *GIS* (Geographic Information Systems)-software to get insights into the spatial dimensions of the study areas.

### **3 Results**

#### ***3.1 National Land Tenure Policies in Vietnam***

From 1883 to 1954 Vietnam was a French colony and the sparsely populated highlands were considered as economic uninteresting for the French. Upland areas populations along the border of Northwest Vietnam consisted of only ethnic minorities and tenure systems were governed by traditional institutions of the locality. After the liberation from the French colonial power, the North Vietnamese government initiated a collectivization process and all means of production, including land resources, were transferred to property of the people of Vietnam managed by the government on their behalf (Le Thac Can et al., 2001). The agricultural production cooperatives replaced the former agrarian structure based on single household economies. Serious food shortages in the late 1970s induced the Government of Vietnam to introduce a de-collectivization process from the 1980s onwards. Natural resources still belonged to the people but agricultural production was now regulated by the successful (Kerkvliet, 1995) Directive 100 allowing to subcontract land by individual households. The contracted output had to be sold to the state at a fixed price whereas any excess production could be used by the household for consumption or could be sold to free traders. These contracts created incentives to increase agricultural production, but the cooperatives still decided on the provision of inputs and the produced crops (Akram-Lodhi 2001). Since 1986 onwards, the Communist Party of Vietnam set for reforms known as ‘doi-moi’ (“renovation”) with the general aim of stimulating the national economy, especially agricultural production



to overcome famine and economic stagnation. The policies opened Vietnam politically and economically. In 1988, Resolution 10 was passed restoring the farm household as the main agricultural production unit and resulting in a large-scale de-collectivization in most parts of the country (Tran Thi Van Anh & Nguyen Manh Huan, 1995). The next crucial step in land tenure policies was implemented through the 1993 Land Law allocating individual land use rights to farm households, providing long-term tenure security of 20 years for annual crops as well as aquaculture and 50 years for forest and perennial crops (see also Wirth et al., 2004). These issued land use rights were recorded in the so-called Red Book Certificate (RBC) that guarantees the rights to exchange, transfer, inherit, mortgage, and lease land use rights.

Tenure changes did not only affect agricultural land, but also forest land and water. During the collectivization period forest land was managed by state-owned enterprises which did not aim at protection and sustainable use of forest but at timber exploitation. National policies focusing on forest resources started with the Law on Protection and Development of Forest enacted in 1991 without having a major impact on forest conservation. Later the Decree 327 “Regreening of the barren hills” issued in 1993 also proved limited success for the reasons that local stakeholders lacked participation, funds were exploited for other purposes, and planning was poor (World Bank, 1996, Sikor, 1998). An additional function of the 1993 Land Law was to support the allocation of forest land to individual households or user groups on local level. In 1998, the so-called ‘5 million ha program’ was initiated with the ambitious target of establishing 2 million ha of protection forest and 3 million ha of production forest from 1998-2010 (Apel & Pham Van Viet, 1998). This program gives rural households a key role in the restoration of barren land and protection of forests. As already mentioned above, current land and forest policies do not acknowledge any form of community-based management.

The transition process of Vietnam (Doi Moi) led the country from a centrally planned economy to a market oriented economy. The Vietnamese government promoted market liberalization and the recognition of individual land use rights. Vietnam implemented reforms gradually in order to ensure political stability while the Communist Party retained the political power. The agricultural sector is especially important for the rural household economy in mountainous areas of North Vietnam since it is the most important source of income and supply. Following Luibrand (2001, p.29) the reforms with the greatest impact on rural households can be stated as

- the transition to the product contract system

- the allocation of property rights
- liberalized markets
- the unification of the exchange rate and the devaluation of the money
- the lifting of trade restrictions.

The contract system and the allocation of long-term land use rights brought significant incentives to farmers with the consequence of steadily increasing agricultural production. The market liberalization not only created markets for different agricultural products but also for the supply of seeds, fertilizers and pesticides. The cultivation of the increasingly important crop maize in the northern highlands also tripled between 1986 and 1999 from 570,000 million t to 1,752,000 million t (World Bank, 2000b). As a consequence of agricultural extensification and intensification, farming systems in rural areas were modified also effecting existing land use patterns.

### ***3.2 Impact of Resource and Economy Policies on Local Level***

#### **3.2.1 Dynamics of Grazing Land Tenure and Management in the selected villages**

The availability of grazing land in Black Thai villages is lower than that in Hmong villages. Hmong villages consist of fewer households (20-30 households), have a lower population density and distances between villages amount several kilometres. Whereas Thai villages encompasses 50-100 households and are located next to each other. Further on, the geographical location of Hmong villages in upland areas with 700-1100 m altitude imply steep swidden upland fields not suitable for irrigated rice cultivation. The area under cultivation, the forest area, and the area of unused land is vaster than in valley areas. These facts account for the higher potentiality of ruminant keeping on larger grazing lands.

In Hang Hoc village a commonly used pasture could be identified while in Ban Tum the grazing activities are solely individually oriented and large grazing areas do not exist anymore. Commonly used grazing lands with a community based management are abandoned since the individual allocation of land use rights or even before in the years after the dissolution of agricultural cooperatives.

To understand the changes of grazing activities in the more recent years it is needed to go back in time in order to explain the conditions some decades ago. Hence fore, it is tried to give a sketch of the conditions in these years. The data is extracted from focus group discussions with farmers, village headmen, and local authorities of the selected communes.

Traditionally, the semi-nomadic Hmong kept ruminants on fallow land and forest areas often surrounded by steep mountains so that animals could not escape and fencing was not that costly. The buffalos and cattle run free in this area and only taken if needed for ploughing or as beasts of burden. After harvest animals were also free to graze the fields under observation of household members. The common pasture was common property of the community with a community-based management. In the late 1970's the socialist Vietnamese government established a further phase of collectivisation effecting also the Northwest of Vietnam. Before that, every village constituted an agricultural cooperative. The further process of collectivisation integrated several villages into a larger agricultural cooperative of the size of the present day communes (c. 5-15 villages). In the time when every village constituted one agricultural cooperative (c. 1960-1978) commonly used and managed grazing lands, mostly in form of pastures, already existed. With the integration of several villages and the further collectivisation of land, the grazing areas of several villages were pooled. In doing so, vast fenced pastures emerged used by all households in the agricultural cooperative. Depending on the size of the pastures up to 5 persons were in charge to manage the use and maintenance of it. These pasture managers were directly responsible to the management of the agricultural cooperative and to report regularly. For labour intensive activities like fencing members of each household were recruited. The area of grazing land in Thai villages could be 30-70 ha and in Hmong cooperatives up to 300 ha. All livestock was pooled and property of the agricultural cooperative.

The agricultural cooperatives constituted by several villages were dissolved in the time from 1982-1984 and land was allocated to individual households on contractual basis. Concerning the buffalos and cattle, individual households had to buy the animals back from the agricultural cooperative for a fixed but reportedly low price. If individual households could not afford to buy a buffalo they pooled money with 2-3 other households or the money pooling was used to buy quite an amount of ruminants. The money they paid was put into the cooperative fund and later distributed to households according to the number of household members.

A consequence of the collectivisation process and the dissolution of agricultural cooperatives was that the average number of ruminants per household was reduced dramatically. In Black Thai villages the availability of common grazing land was significantly more limited than in Hmong communities. With the 1993 Land Law a further step in the individualisation process of land resources was boosted. The land allocation process together with the declaration of vast forest areas to protection forest are major reasons for the significant reduction of

common grazing land but not the only ones. The rapid population growth can also be counted as a major reason for the reduction of grazing land.

As we can derive from our field-research data, common property is the predominant form of property regimes ruling CPRs in the researched mountainous areas of Northwest-Vietnam. In the Hmong village common grazing land is used by all households with ruminants. Buffalos are used as beasts of burden for heavy work load and ploughing while cows are raised for selling and as physical capital and financial reserve. These patterns of ruminants keeping are similar to those in Black Thai villages but in the valley-located Thai settlements with a comparatively higher population common grazing land almost completely disappeared. Seasonally, from October to January, Black Thai households use the already harvested paddy fields as common grazing land. The Hmong use common grazing land and pastures from April to October which correlates with the maize cropping season. In the time between, ruminants graze free around the village and on harvested maize fields and at least one household member is recruited to take care of them.

***Present grazing land activities in Ban Tum*** (see table 2)

In Ban Tum common land used for animal grazing could be identified as roadside and riparian areas around the village as well as orchards and forest land of individual households. Common grazing land or pastures with community based management other than rice fields after harvest do not exist anymore. Households are individually responsible for the grazing of their animals. These individual activities are time and labour force intensive because at least one household member must stay with the animals during the day time. At night time, buffalos and cattle will be taken home. Often the elder people or the children who are not in school have the responsibility to keep the buffalos during day time. In many cases a difference in buffalo and cattle grazing was obvious. Buffalos are usually used as labour forces whereas cattle serve as savings and meat production unit. Therefore, the buffalos are kept near the village or the house whereas cattle are sometimes raised on individually allocated forest land. This can be explained as followed. Most of the households were allocated a plot of the forest (protection forest, regeneration forest, or reforestation forest). The households' duty is to protect and take care of the allocated forest land, or like in reforestation forests to plant and nurse trees. Nevertheless, if trees in these allocated forest areas are grown up and cannot be damaged by animals anymore farmers are allowed to graze animals there. These forest areas are often used as grazing land for cattle.

Table 2: Yearly Grazing Calendar of Ban Tum:

Location/Months	1	2	3	4	5	6	7	8	9	10	11	12
Recently harvested fields											X	X
Roadside & riparian areas, orchards	X	X	X	X	X	X	X	X	X	X	X	X
Forest					X	X	X	X	X	X	X	X

(Source: Hager, Field Survey 2004)

Due to the abandonment of common grazing land use and collective grazing actions, in Ban Tum there are only few general regulations of use and access to grazing land left. Basically, it is allowed to graze animals everywhere in and around the village as long as no other farmer's land is affected. For grazing animals on fields other than the own ones a permission of the field owner must be given. It is also not allowed to graze animals in reforestation and regeneration forest areas when trees are small. Especially, ruminants and goats must be under observation of a responsible person to prevent damage in fields and ponds. If an animal causes damage the owner will be fined by the village with c. 50.000 VND and must also pay compensation to the aggrieved party. In one period of the year, common pastures can be temporarily identified in form of the harvested paddy fields. After harvest in November all paddy fields can be used equally for grazing, irrespective of individual land use certificates. The period lasts from November to December/January when the paddy fields will be flooded again. When using the harvested paddy area as grazing land the animals are free to run under the surveillance of household members.

***Present grazing land activities in Hang Hoc*** (see table 3)

The tenure and activities concerning grazing lands in Hang Hoc differs visibly to that in Ban Tum, specifically in the existence of common grazing land in form of pastures. The availability of larger areas for grazing and the lower population density enable Hmong communities to keep certain areas for common use. Additionally, Hmong farming households are usually endowed with less financial assets compared to Black Thai households in the Yen Chau valley. Consequently, in Hang Hoc only 10 out of 27 households keep

ruminants (10 buffalos and 9 cows) at the same time as in Ban Tum almost all households own ruminants.

In Hang Hoc similar grazing lands as in Ban Tum (roadside and riparian areas, fields, forest) were identified but farmers of Hang Hoc additionally use a communally used pasture. All households in the village have access to that pasture after informing the village headmen. However, certain obligations like fencing, clearing and participating in meetings must be fulfilled. Several times a year meetings will be held where collective actions and problems are discussed. If individual stakeholders do not properly fulfil their duties they can be excluded from use and access. Households with only one buffalo or cow often keep them near the house within the settlement and use the pasture only if nobody is available to take care of the animal due to intensive field preparation. Usually, individual households do not look for their animals on the pasture every day but user group members who inspect the pasture will inform the owners of animals if any irregularities appear.

Table 3: Plan of Grazing Lands and Activities in Hang Hoc:

Location/Months	1	2	3	4	5	6	7	8	9	10	11	12
Pasture <sup>3</sup>			X	X	X	X	X	X	X	X		
Around village <sup>4</sup>	X	X								X	X	X
Fencing <sup>5</sup>		X										

(Source: Hager, Field Survey 2004)

In Hang Hoc it is obvious that pasture land suffer from land rights insecurity (see fig.3). On district and commune level in Yen Chau local authorities often connive at the fact that in this village forest land is used as common grazing land. The users must ask for permission to use the selected land as common and informal *de facto use rights* will be granted by local authorities. However, these permissions can be withdrawn at any time without any veto of

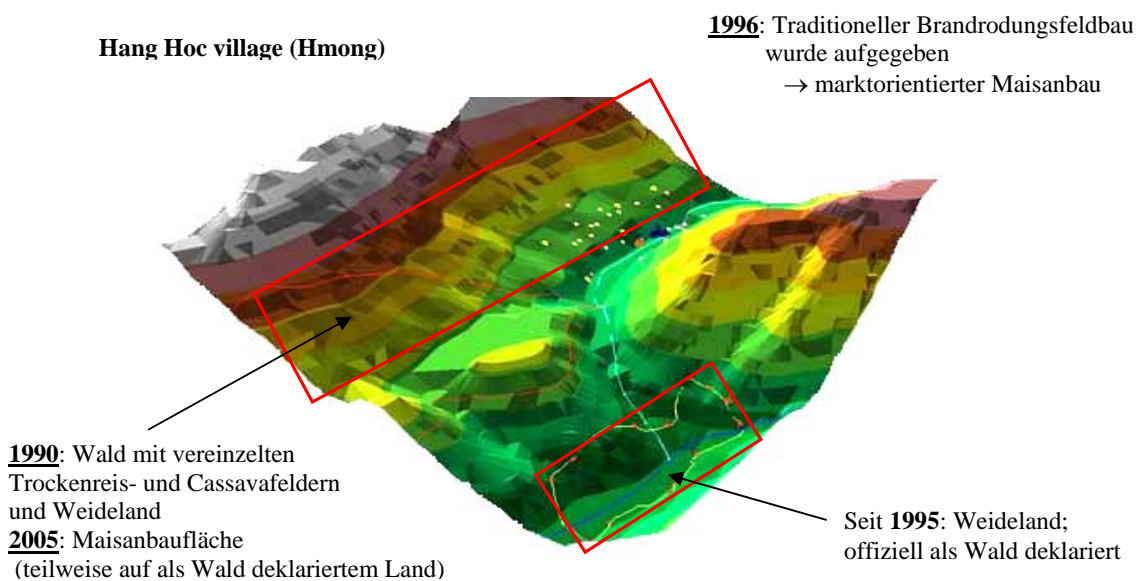
<sup>3</sup> During the time on pasture, ruminants will periodically be taken to the house when the labour force is required.

<sup>4</sup> During this time the animals must be guarded by at least one hh member when grazing around village territory. Grazing lands are roadside plots, riparian areas, fields after harvest, orchards, forest.

<sup>5</sup> Fencing is commonly done by all user group members. If common work is not fulfilled by members, access to pasture will be denied.

users. In this case, customary land use rights are applied to access and use common grazing land within the village community. However, the customary rights are in conflict with national regulations because common property is not yet acknowledged by national laws and forest areas are officially not allowed to be used as grazing land and therefore inherit legal insecurity.

Fig. 3:

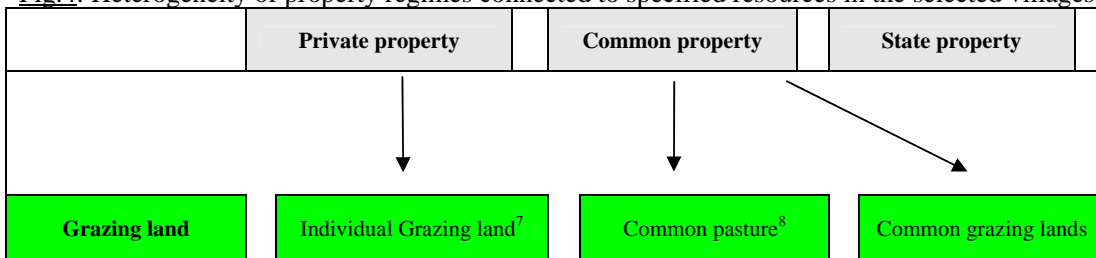


The local level tenure systems comprise legal pluralism of *de facto* and *de jure* property rights affecting commonly used resources. Common-pool resources under common property regimes have a long tradition in the resource use systems of Hmong and Black Thai. Property rights define social relations regulating the resource access, use and management and can be *de jure rights* originating from state laws or *de facto rights* valid only within the locality. The distinction between *de jure* and *de facto rights* is important to understand the interaction between customary local and national property regimes since common property of groups or communities is not included in the legal framework of Vietnam. From the collected data our research derives that customary land tenure systems on commune and village level are complementing the lacking national legal framework. Customary laws are dynamic in order to handle changing natural resource use patterns and important to maintain a working resource management in local level communities.

Field work also shows that common property regimes play a significant role in the grazing land tenure systems in Yen Chau. The continuum of possible and *de facto* property regimes (see fig.4) for grazing land resources encompasses private property, common property and

state property. In Hang Hoc and Ban Tum, farmers use individual grazing land under private property in form of owned fallow or forest land and have the right to exclude others from using the individual grazing land. Informal common property regimes govern the common pastures and common grazing lands identified in the examined villages<sup>6</sup>. There are no state property regimes directly involved in governing grazing lands. although informal customary property and management systems can get in conflict with state property regimes as seen in the case of the pasture of Hang Hoc.

Fig.4: Heterogeneity of property regimes connected to specified resources in the selected villages



(source: Hager, Field survey 2005)

### 3.2.2 Institutional Context of Grazing Land Management

Land management institutions are not consistent on the administrative levels and are a combination of private, common and public rules. On national level land is described as property of the people but the further we analyze the institutional context of local level resource management the more institutional complexity is recognizable. Additionally, we must differentiate between customary institutions in Hmong and Black Thai communities since the socio-political and agricultural traditions differ evidently. However, the village headman is the most influential agent in the social systems of both cultural contexts.

<sup>6</sup> Common grazing lands are roadside and riparian areas, public areas within the settlement and harvested fields.

<sup>7</sup> Grazing land is defined as “a collective term that includes all lands having plants harvestable by grazing without reference to land tenant, other land uses, management, or treatment practices” (Society for Range Management 1989).

<sup>8</sup> Pasture is defined as: “(1) A grazing area enclosed and separated from other areas by fencing or other barriers; the management unit for grazing land. (2) Forage plants used as food for grazing animals. (3) Any area devoted to the production of forage, native or introduced, and harvested by grazing. (4) A group of subunits grazed within a rotational grazing system” (Society for Range Management 1989).



Table 4: Access and use rights identified in the study area

<b>Grazing Land</b>	
<b>Access Rights</b>	<b>Use Rights</b>
<ul style="list-style-type: none"> <li>• to common pasture for all village community members</li> <li>• to individual grazing land of individual households</li> <li>• to individual grazing land for relatives</li> <li>• Open access to harvested fields</li> </ul>	<ul style="list-style-type: none"> <li>• Individual use rights for individual land</li> <li>• Common use rights on common grazing land</li> </ul>

(source: Jörg Hager, Field survey, 2005)

In general, we classify different forms of access and use rights of the examined common-pool resources corresponding to the identified property regimes (see table 4). On official administrative levels de jure institutions are the frame-work for the tenure and management of natural resources controlled and implemented by government agencies, e.g. ministries, local and military authorities and governmental organizations.

On local level, the de jure institutional frame-work is filled with various de facto institutions governing natural resources. In Hang Hoc, institutions of grazing land management are defined by the user group which comprises all households keeping ruminants. They set the time for fencing as well as the seasonal time-frame for common-grazing land use. Ruminants must be kept on the common grazing land or pasture during the maize matures to prevent ruminants from damaging fields and the headman is in charge to monitor and enforce the rules and states the punishment if applicable. In Black Thai villages individualized grazing activities prevail and rules are predominantly regulating damages caused by ruminants. Similar to the institutional structure in Hmong communities, the village headman is the regulating actor regarding the mediation and punishment if customary laws are exceeded. After the rice harvest, Thai farmers are allowed to graze their animals free but under supervision of household members to prevent serious damage of terrace constructions.

In each village official administrative structures exist that are embedded in the national legal frame-work. This official institutional frame-work is filled by several customary regulations and codes of conduct on local level and formal land management regulations are interlinked

with informal customary institutions. The lack of detailed national tenure policies in Vietnam results in the need for informal institutions on local level to regulate access, use and management of common-pool water resource systems.

Using Oakerson's (1992) institutional framework, we tried to analyze collective actions on an operational level in the study whereas the examined social units are individuals, groups and communities. The collective actions that are manifested as institutions recognized by all stakeholders in the tenure and management of water and grazing land are primarily the maintenance of resource systems, fencing, constructing and upgrading, equal grazing land access and allocation as well as damage prevention and compensation.

A further characterization of collective actions needs to consider also the socio-political and cultural background of Hmong and Black Thai. The Hmong society is traditionally semi-nomadic and structured by patrilineal clans while a village consisted of one clan. Nowadays, each of the studied Hmong settlements comprises 3 clans. The patrilineal clan structure is also valid for the Black Thai who live in higher populated villages with several clans. These clan structures are maintained until today and build the base of a still strong social cohesion of villages and user communities as a crucial precondition for collective actions.

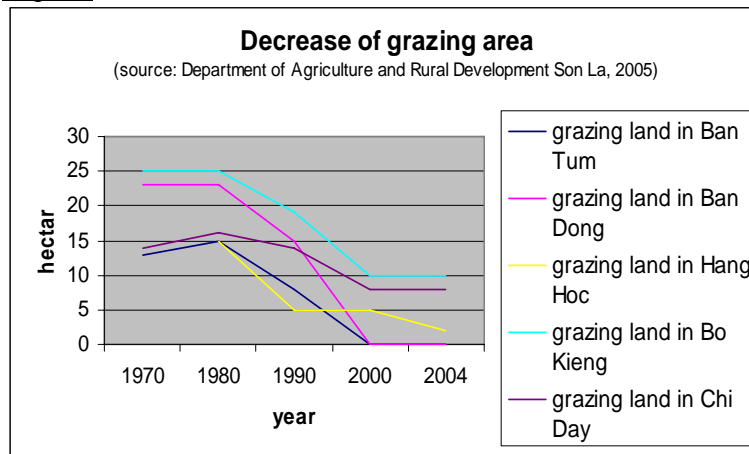
### **3.3 Conclusions**

Common-pool resources like grazing land examined in this study experience different dynamics in the past decades. In general, it can be stated that natural resources are increasingly under pressure and degradation is proceeding due to a fast growing population, intensification and expansion of agricultural market production. Additionally, the allocation of individual land use rights affected the access to and use of land resources formerly used as pasture and grazing land.

Grazing land in the land use system of Hmong settlements decreased (see fig.4) significantly since the land reform of 1993. The former vast area of grazing land used and managed by the community has been declared as forest land or divided and allocated to households with individual use rights. In Thai communities, pastures and coherent areas of grazing land almost disappeared. The effect is a decreasing number of ruminants and an individualization of grazing activities. The tenure of grazing land is regulated by de facto common property regimes on local level but de jure not recognized by the state. In communities where communal pastures have disappeared the traditional property regimes and management structures also diminished. We value the decrease of grazing land and pastures as economically not detrimental since the orientation towards market economy by cultivating

cash crops generates more income than livestock keeping. For an ecologically and economically sustainable use of pastures or coherent grazing land an improved pasture management including plant and soil management would be necessary due the degradation of land resources. However, for poor households a decreasing number of ruminants imply an increase of livelihood risks for the reason that buffalos and cattle are physical assets which are important to cope with livelihood crisis like diseases or death (Hager & Fischer, 2005).

Fig. 4:



(Source: Hager, J. and Fischer I. 2005)

Common-pool resource tenure on local level is predominantly governed by common property regimes not recognized by state law and customary institutions are used to cover deficits of formal rules and jurisdiction. The institutional and legal pluralism of state and customary laws concerning common-pool resources and common property regimes is currently not leading to sharp conflicts. However, informal common grazing land tenure can cause conflicts with national resource policies as described in the case of Hang Hoc village. Land rights also still reflect cultural and socio-political structures prevalent in the respective ethnic environments. The official acknowledgement of local forms of common property regimes and management would result in a long-term legal security of farmers positively influencing the future use of natural resources. Further more, resource policies' implementation needs to be more detailed and decentralized to comply with local resource conditions including the interests and special characteristics of ethnic minorities. An appropriate cooperation between government agents and local communities and user groups would have the potential to improve natural resource management and protection. Corresponding to the measures mentioned above it is needed to enhance local farmers' capacity concerning agricultural techniques and resource management.

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