

SITUATION AND PROPERTY RIGHTS IN AGRICULTURAL AND UNUSED LANDS UPLAND OF VIETNAM

A case study in A Luoi district, Thua Thien Hue province

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ABSTRACT

The research aims at identifying the status of the management and use of agricultural and unused land in the upland areas of Central Vietnam via a case study of Hong Bac commune to identify issues relating to the exploitation and land use. This research is based on the bundles of property rights analysis framework and on field investigations through site surveys and discussions among the groups who manage and use the land, including: the State (commune and district), community and households. The analysed research results have demonstrated the performance as well as activities of the property right bundles to the local people and the State as for agricultural land and unused land; have identified and classified the existing formal and informal rights relating to the two kinds of land in the survey location; have clarified the reasons of the existence as well as the impact of the rights to the land exploitation of the local people. The research has evaluated the status and changes of land in general and agricultural land and unused land in particular, from 2000 to 2008. It has also analysed the reasons for the changes of agricultural and unused land and of crop structure. The reasons are the changes in the land policies of the State, the spontaneous changes in crops and land exploitation of the people for earning their livelihood due to the general economic changes of the district and the demands of the agricultural product market.

KEYWORD: Property rights, land use change, formal and informal issue.

1. INTRODUCTION

Management and use of agricultural and unused land have experienced for many historical periods of Vietnam policies along with the socio-economic development of the country. Therefore, they are comprehensively affected by Government policies.

Agricultural land plays a very important role to farmers and the local development in economic and social from central to localities. Hence, the agricultural land has been taken into account by Government's policies leading to the well-regulated and stable management manner. However, the management and use of agricultural land types in upland areas differentiate from other regions because of largely different ecosystems and ethnic matters.

Unused land is comprised of land for which a use purpose has not yet been determined (Vietnamese Land Law 2003). However, various land users have accessed and exploited this type of land for diverse purposes, as well as benefited from cultivation and exploitation on it, except for within un-cultivable areas. The management and use of unused lands are complicated and changing in terms of management actors, regulations, and benefit sharing and distribution by laws.

Studying changes in the management and use of agricultural and unused land in combination with livelihood and natural resources management will provide differences of

policies, formal rights and informal rights, and how local people manage natural resources and benefit from management and use. Therefore, the goal of this research project is to define changes in management and use of agricultural and unused land regarding the property rights in Hong Bac commune, A Luoi district, Thua Thien Hue Province.

Specific objectives:The specific objectives of this research include the following:

- To examine the formal and informal management and use rights of agricultural and unused land (more concentrated on unused land)
- To descriptive analysis changes in agricultural and unused land management and use.

Research questions:

- What are state legal documents and local regulations regarding agricultural and unused lands? How are influences?
- Are there any changes in agricultural and unused land resources after land laws (1988, 2000, and 2003) and how is the potential for future changes? How are the current agricultural and unused land use and management?
- What are the property rights for agricultural and unused land (formal and informal)? What formal and informal factors that cause those changes?
- What are the relations between the formal and informal factors for management and utilization in agricultural and unused land after land laws? Are there any conflicts, limitations, challenges within formal and informal property rights for agricultural and unused land?

2. LITERATURE REVIEW

2.1. A short overview of policies in relation to management and use of agricultural and unused land in Vietnam

In 1986, Vietnam started the “Renovation” process. The selected breaking point of the “Renovation” process was to shift from cooperative based agricultural production to household based one. Agricultural land was allocated without any payment to households for long term and stable use which is 20 years for annual crop land and 50 years for perennial crop land. The new land policy has led Vietnam to be the world’s third leading rice exporter.

In 1988, the first Land Law of Vietnam was passed by the National Assembly to legalize the allocation of land from cooperatives to households (Vietnamese land law, 1988). In 1992, the new Constitution was passed by the National Assembly in which it was decided that the Vietnamese economy should develop as a market mechanism governing by the State and the whole people ownership on land should continue. The National Assembly advocated the establishment of a new land law which should be more suitable in order to facilitate market economy development. In 1993, the second Land Law of Vietnam was passed by the National Assembly, which laid down three important renovations, the State granted 5 rights of exchange, transfer, lease, inheritance, mortgage to the residential and agricultural production land users, and the State protected land use rights by issuing Land Tenure Certificates to land users (Vietnamese land law, 1993). After several years of implementation it was reflected that this Law regulated the agricultural land fairly well but was not capable enough for industrial and service development land. In 2002, the State decided to conduct a comprehensive review of the implementation of land

legislation since 1993 and to develop a new Land Law in 2003. The National Assembly passed the Land Law 2003 in November 2003.

Major renovations in the land law 2003 included: The State only manages the land use purpose in five cases which is different to the land legislation context in the past: firstly, shifting from high productivity paddy land to perennial or forest plantation and aqua-cultural production; secondly, shifting from land with forest to other purposes; thirdly, shifting from agricultural land to non-agricultural land; fourthly, shifting from non-agricultural land for non-economic purpose use to economic purpose use; fifthly, shifting from non-residential land to residential land. For other cases, land users have the right to change land use purposes within the same land category regulated by the land use planning and register the land use purpose changes at Land Titling Office (Vietnamese land law, 2003).

Annual agricultural production land, salt production land, aquaculture production land have 20 years term; perennial agricultural production land, production forest land have 50 years term; at the expiration of the term, the land users have the right to continue their usage but don't need to go through any extension procedures.

Land area norm: In the previous land legislation system, land area norm for annual agricultural land is 3 ha/1 household in the Mekong delta region, 2 ha/1 household in other regions; land area norm for perennial agricultural land, production forest land is 30 ha/1 household in the midland and mountainous areas, 10 ha/household in the delta regions; residential land is 400m²/ household in mountainous area, 200m²/ household in rural are, 100m²/ household in urban area; No regulated land area norm for industrial and services purposes use. The Land Law 2003 does not regulate land area norm for land use and regulates land area norm for land allocated by the State only. The allocated land area norm is kept at the same level of land area norm stipulated in the previous Land Law. In case interests of the poor farmers who don't have production land need to be protected, the Standing Committee of the National Assembly should provide further land regulations on limitation of land area which received from others in coming time.

Rights and obligations of land users: Land Law 2003 has considered land use rights as the property of land users and land users have all rights to land use as the rights to property that are in conformity with the Civil Code. The users of land that is able to participate in the real estate market have 8 rights: exchange, transfer, lease, inheritance, donation, mortgage, guarantee, contribution as capital, including residential land, agricultural production land, production forest land, aquacultural roduction land, salt production land, non-agricultural land used for commercial purpose.

2.2 Property rights and resources management

The nature and distribution of property rights are critical in determining how resources are used and conserved. By property rights we mean the formal and informal institutions and arrangements that govern access to land and other resources, as well as the resulting claims that individuals hold on those resources and on the benefits they generate (Bromley, 1992). Property rights determine who can do what with a particular resource, such as a parcel of land, and sometimes also when and how they can do it.

Property rights arise from law, custom, and the operation of markets. Public agencies play a central role in shaping property rights. First, public agencies help establish the initial distribution

of rights in (or access to) resources within a community or society. Second, they influence the ways in which these rights can be traded between members of society. And third, public agencies may themselves participate in markets) rights in land and other resources.

Property is perhaps the most confusing term in the literature; and yet an understanding of property and property rights, its complexity, and its politics (Nguyen, 2005). The term property is commonly used in the current daily language to refer assets, or things (Bromley, 1989; Hann, 1998, MacPherson, 1978). Property theorists define property as a right in the sense of a claim to a benefit stream (Commons, 1968; MacPherson, 1978; Meinzen-Dick and Knox, 1999) although the wording differs slightly from author to author. The term property right is used to make the connotations of property clear (Bruce, 1993). In contemporary writing, however, these two terms are used interchangeably.

Property is similar to tenure in the sense that they are both about rights and obligations and duties. Rights to certain things are only meaningful if other people abide them (Bromley, 1992; Schlager and Ostrom, 1992). Rights and duties are governed by a set of rules, or as Schlager and Ostrom (1992) put it, “rules specify both rights and duties”. The system in which rights are embedded is one of relations between an individual and a group (MacPherson, 1978).

Bundles of rights in the field of property, according to Schlager and Ostrom (1992) define five classes: rights of access, rights of withdrawal, rights of management, rights of exclusion, and rights of alienation. Rights of access is defined as the right to enter physical property while the right of withdraw is the right to obtain the produc of a resource, right of management is the right to regulate internal use patterns and transform the resource by making improvement, right of exclusion is the right to determine who will have an access right and how that right may be transferred, and the right of alienation is the right to sell or lease either or both of the both of the above rights (Schlager and Ostrom, 1992). Besides that, holders of property rights can be the state, communities (groups) or individuals. Depending on the prevalent resource manager, these types of property can be classified into state property, commual property or private property (Bromley, 1989, 1992; Feeny et al. 1990; MacPherson, 1978). However, according to Vietnamese land law (1988, 1993 and 2003), state property and commual property are determined as common property of state. The above categorization of property rights helps to provide a useful method for examining property at upland study area, Hong Bac commune, A Luoi district (Vietnam).

3. CONTENT AND METHODOLOGIES

3.1 Contents

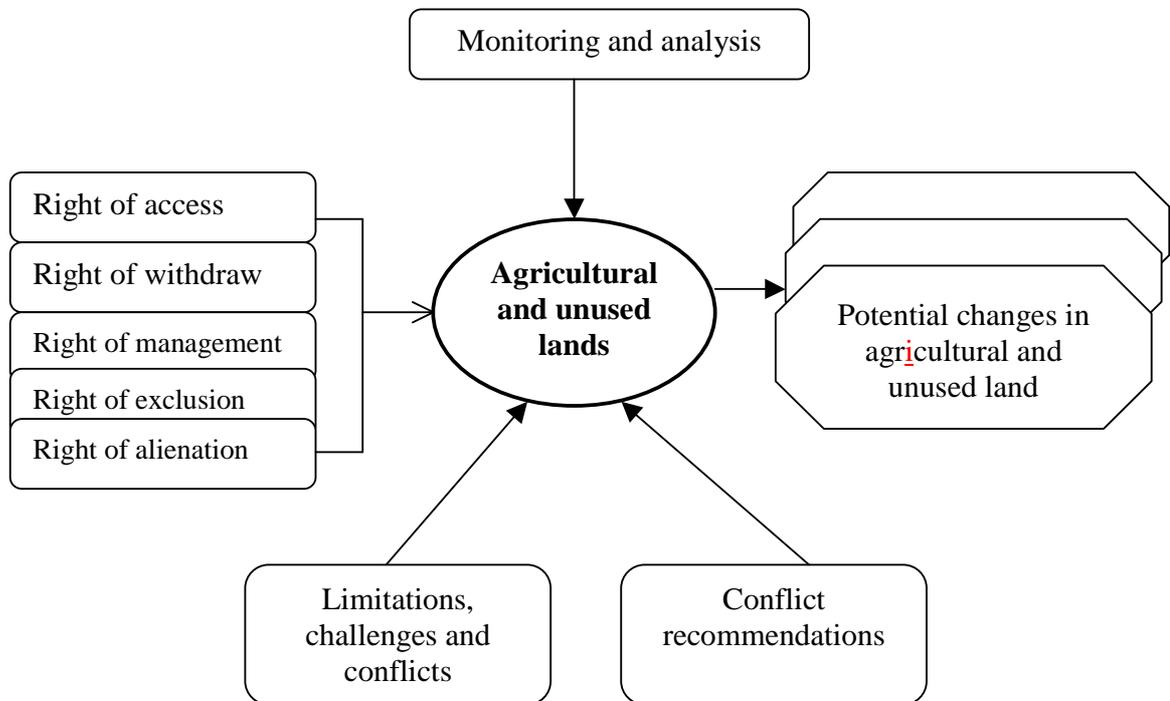
- Overall literature reviews of land use right change in terms of Land Law related to agricultural and unused land
- Changes in agricultural and unused land resources
- Formal rights of agricultural land
- Informal rights of agricultural land
- Formal rights of unused land
- Informal rights of unused land

- Relations between the formal and informal factors for management and utilization in agricultural and unused land after land laws and conflicts, limitations, challenges within formal and informal property rights for agricultural and unused land

3.2 Methodology

This research will apply “*Bundles of rights analysis framework*” as a core direction to analyze management and use rights of agricultural and unused land. Based on that framework, formal and informal management and use right for different actors will be clearly defined and specified.

The analysis framework makes as following:



This study is analyzed based on the two main following documentary sources: the literature source gathered from the available documentation and the data collected in the research areas. In order to collect the data in the research areas, Study applied the following methods:

- *Agricultural and unused lands walks*: Preliminary investigation in the agricultural and unused lands can help to overview the degree of changes in agricultural and unused lands, topography, sloping degree, agricultural and unused land type and accessibility to the agricultural and unused lands. The map of current land used is used for comparison of changes in the agricultural and unused land conditions.

- *Village walks*: This is to find out the level of usage and agricultural products in the village's livelihood as well as the social-economic situation in the village. Questions on village situation in agricultural and unused land can be integrated in village walking.

- *Participatory mapping*: This is a very simple but useful technique in collecting data on the situation of agricultural and unused lands. (Remote sensing and paper map will be used).

- *Group discussion*: this technique helps to study the villager's awareness on the formal and informal factors that impact on agricultural and unused land resources. A group of three or four villagers will be invited for discussion on the selected number of important issues (village elder, village headman, knowledgeable villagers). For efficient group discussions, the assessment team should encourage and give equal chance to talk to all participants.

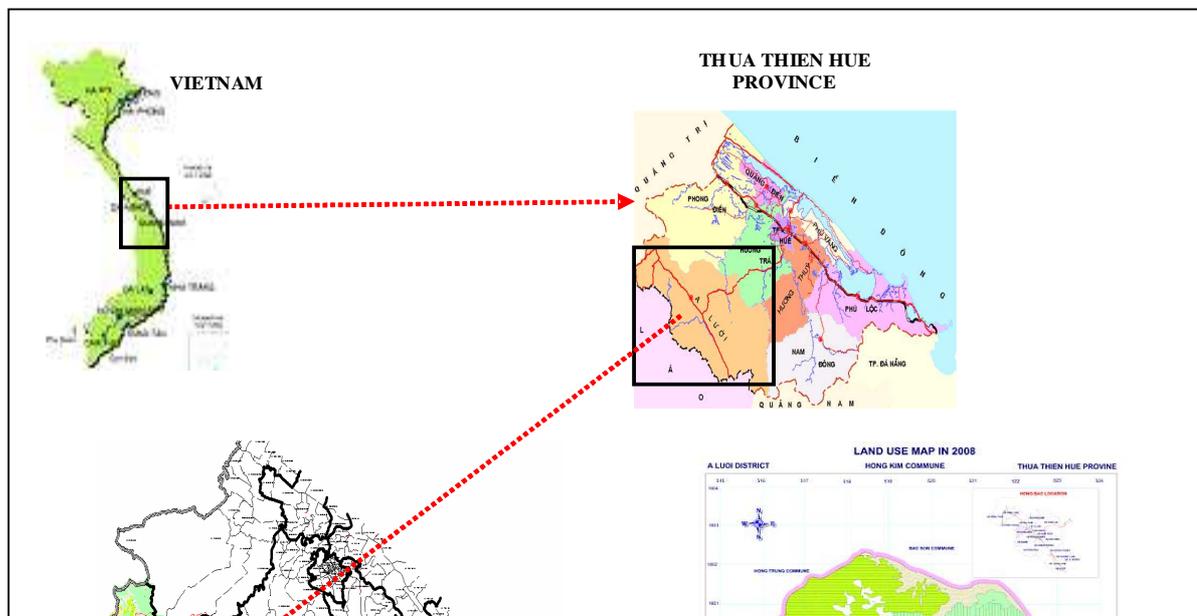
- *Consultant meetings with local authorities and other stakeholders and interview with state land staffs*: the agencies in management of agricultural and unused land: The Aluoi Department of Natural Resources and Environment, Agriculture and Rural Development, Commune Leaders in Social-Economic Branch.

- *Household survey*: this is an important tool in collecting detail data on the use of agricultural and unused lands, property rights (formal and informal) and its sources of income. The household survey will include about 10 households in a village, which interviewed by the means of an open questionnaire.

- *Mapping and remote sensing image analysis*: for land use/land cover change identification.

3. SITUATION AND GEOGRAPHICAL SETTING

The chosen target survey area for this research is the Hong Bac commune, A Luoi district, Thua Thien Hue province, bordering to the Lao People's Democratic Republic. Hong Bac is among the poorest communes of A Luoi district in which 68% of the households are the poor ones and almost 100% of the inhabitants are of the ethnic minority (Paco). Total natural area of the commune is 3152.99ha, in which that of agricultural land is 380.85ha, that of forestry land (with forests) is 2352.60ha, that of non-agricultural land is 130.00ha, and the rest, 276.71ha, is the area of unused land.



Map 1. Location of study site

The incomes of the local people depend mostly on agricultural production, mainly wet rice and dry rice. Only average households or those received fund supports from development projects have additional incomes by breeding. Therefore, it is extremely essential for the A Luoi district in general and for Hong Bac commune in particular to properly exploit and use agricultural and unused land resources so as to obtain sustainable livings and food safety for each households and the locality. Hong Bac commune has 5 villages. The basis information on natural and socio-economic conditions of the survey villages is presented in the below tables.

Table 1. Summary of background information at 5 study villages

Contents	Lệ Ninh	Lệ Lộc 1	Lệ Lộc 2	Tân Hối	A Sóc
Geographical conditions					
Distance to district center (km)	3.5	2.5	3.0	4.0	2.5
Distance to province center (km)	73.5	72.5	73.0	74.0	72.5
Population and demography					

Population	490	388	510	320	212
Number of households (HH)	117	92	111	68	48
Average HH size	4.2	4.2	4.6	4.7	4.4
Average number of labors	2	2	3	3	2
Ethnic group	Pacô	Pacô + Kinh	Pacô + Kinh	Pacô	Pacô
Village leadership structure					
State system	Five people in the position of village leader, vice leader, youth union leader, woman union leader and village police.				
Traditional system	One village oldman (Già làng)				
Agricultural land					
Average dry land per HH (ha) (Upland and home garden)	0.3	0.5	0.3	0.2	0.3
Average paddy rice per HH (ha)	0.1	0.15	0.1	0.1	0.12
Main crops	Rice (dry and paddy), cassava, maize				
Major sources of off-farm	State salary	State salary, trading and service	State salary	Work for coffee company, state salary	State salary, trading and service
Number of very poor HHs	49	45	54	40	23
Number of poor HHs	25	10	13	16	13

Source: Field work

4. FINDINGS AND DISCUSSIONS

5.1. Policies on agricultural land and unused land to be applied at the commune

Prior to investigating the policies on agricultural land and unused land to be applied at Hong Bac commune, group discussions were carried out to learn about 2 concepts of agricultural land and unused land and to discuss the understanding of the rights in the right bundles that this research is interested in. The discussion result shows that most of the people and authorities at commune and district level can understand and interpret the concept of agricultural land. Their interpretation conforms to the land laws. However, as for unused land, there are different understandings about this concept among the discussion groups, and they are not totally the same as what is prescribed by the land laws. Particularly, according to the land management officers at commune and district level, unused land is the land which has not been assigned to and exploited for any purposes, and it is very difficult for them to identify the area of unused land in reality and on the map. On the other hand, according to the farmers, the unused land is the unusable land due to complicated topography like high mountain and rocky mountain. Whereas, the land laws (2003) prescribe that unused land is comprised of the land for which a use purpose has not yet been determined. Thus, upon concept discussion, difficulties can be seen in deep investigation into the unused land rights.

Besides, some rights in the right bundles, like the right of access and right of exclusion, are totally strange and difficult understand to the local people and even to the land management officers. Because for them, access right is a natural right and they have never heard about this.

Regarding agricultural land and unused land, anyone has the right to visit and access it, including the land management authorities so long as the property on the land of the land user is not damaged. And land here almost has no firm fence or border so if it is deserted or reserved for the next crop, people or even animals, cows and buffalos can access freely, so the notion of access right is not paid attention to or interested by the residents. Regarding the right of exclusion, for the local people land is handed down from many generations so they rarely trespass on other people's land for farming without prior permission, so the right of exclusion is understood as reminding or warning each other if someone trespasses upon the land while reclaiming it. If the warning is not effective, people usually use local customs and regulations to admonish or punish the violator and this is decided by head of the village or through the intervention of local authorities. However, this rarely happens; so for the local people, so far this right is not well known and for the state, among the eight land use rights of the people there is also no right of exclusion, so during discussion with the people and the local authorities they do not like to mention this right because exclusion means existence of a big conflict in exploitation and use of each other's land and this is considered a quite sensitive problem. Besides, the people do not want to have this kind of problem because it can lead to loss of consolidation in the village or among the clans.

It can be learnt from the investigation of farmer households and studying the establishment and development process of the villages and the commune that Hong Bac commune was established in 1993 with 4 villages, including: Le Ninh, Le Loc 1, Le Loc 2 and Tan Hoi. By the end of 1993, the A Soc village was separated from Hong Nam commune (currently known as A Luoi town) and merged into Hong Bac commune. Before the promulgation of governmental laws and policies on land, in the 1980s and in the first years of the 1990s, most of the natural resources like cultivated land, timber forest, rivers, springs, lakes or wild animals,... were considered as common properties of the whole community. The management and exploitation of these resources were based on the spontaneity of each family line and on the custom or convention approved by the local people. Through interviewing the elder people at the villages, most of the interviewees stated that at that time they were bound by no policies of the government or rare management of the local authorities, the agricultural cultivation was mainly by nomadic farming or exploiting wild products in the forests for livings.



Photo 1. Discussion on land policies and property rights with district, commune officers

Since the promulgation of the land laws in 1993 and the laws of forest protection and development in 1992, the exploitation and use of agricultural and unused land at the locality have been affected. Most of the land resources as well as properties on land were inventoried by the government. They belonged to the common possession of the whole community and are under the management of the government. Until the land laws promulgated in 2003, land in general was under the possession of the government and the inhabitants have the right to use it. The conversion from common management and use as the common property of the locality to governmental possession and management in accordance with land laws and related laws has developed several issues relating to people’s awareness, management matters and earning livings. This led to significant changes and fluctuation among the various kinds of land, especially agricultural land, forestry land and unused land. The changes of land use structure, in one hand, brought about certain benefits for both the people and the land administrator. On the other hand, they revealed several problems, especially when the local conventions or custom were no longer valid and were completely replaced by government laws and policies, while the local people were lagged behind in approaching the information.

From the 1980s to the first few years of the 1990s, the area of forestry land and agricultural land dropped significantly, whereas the area of unused land rapidly increased due to uncontrolled exploitation and quick land degradation. Facing this situation, the government issued several laws and policies so as to enhance the governmental management of land, maintain and reduce the rate of losing forests, especially natural forests, and find ways to exploit unused land. The objective of all these policies was to bring about effects and benefits in terms of economy, society and environment. Some policies had great impact to the management and use of agricultural and unused land at Hong Bac commune, as presented in Table 2.

Table 2. Policies on agricultural land and unused land to be applied at the commune

Year	Documents
1992	Forest protection and developemnt law
1993	Land law
1993	Decree No 64/CP Regulating the allocation of agricultural land to organizations, households, and individuals for long term and stable use for agricultural puspouse
1994	Decree No 02/CP Regulating the allocation of forestry land to organizations, households, and individuals for long term and stable use for forestry puspouse.
1995	Decree 01/CP Regulating the allocation of land for agricultural, forestry, and Aquacultural productions in State Enterprises.

1999	Decree 163/CP Regalating the allocation for forest and forestry land (replace the Decree 02/CP)
2003	Modified land law
2004	Modified forest protection and developemnt law
2004	Decree 181/CP Instructions for implementation of land law 2003

Source: Aluoi district and Hong Bac commune

By analysing the policies and laws applied to land in general, and agricultural and unused land in particular, at Hong Bac commune, it shows that the land law of 1993, decree 64/CP of the government about assigning sustainable and long-term agricultural land to organisations and individuals, decree 02/CP which was later replaced by decree 163/CP, about assigning land and forests to households, community and organizations afterwards have significantly changed the management and use of agro-forestry land and unused land's resources of the commune. These policies have partially helped the local people to have sustainable and long-term right to use agricultural and unused land for other purposes, particularly for agro-forestry purposes which are approved by the government.

For the area of forestry and unused land assigned for forestry planting, each household in the commune border their own land by fence or marked trees, although legally speaking, the measurement and boundary have not been acknowledged and the government has not set the official landmarks for seperating the boundary. However, the encroaching among the households is rare. Besides, Hong Bac commune has received the support from the government in developing 5 millions hectares of forest (project 661). The plants to be developed at the commune are: acacia mangium and some other native plants. At the time being, some plantations of acacia and native plants are below expectation of the program. The main reasons are: the local people did not totally understand the effect and economic value of acacia; the initial investment fund for developing forestry plants was spent on other purposes which led to incomplete and ineffective caring methods later on; and another important reason is that the local people used forestry-oriented area to grow agricultural plants, rotating with rice or cassava due to lack of cultivation area.

5.2 Practices of changes of agricultural and unused land in Hong Bac (2000-2008)

5.2.1 Agricultural and unused land use changes in Hong Bac (2000 – 2008):

Table 3. Situation and fluctuation of land resources at Hong Bac commune 2000-2008

Unit: ha

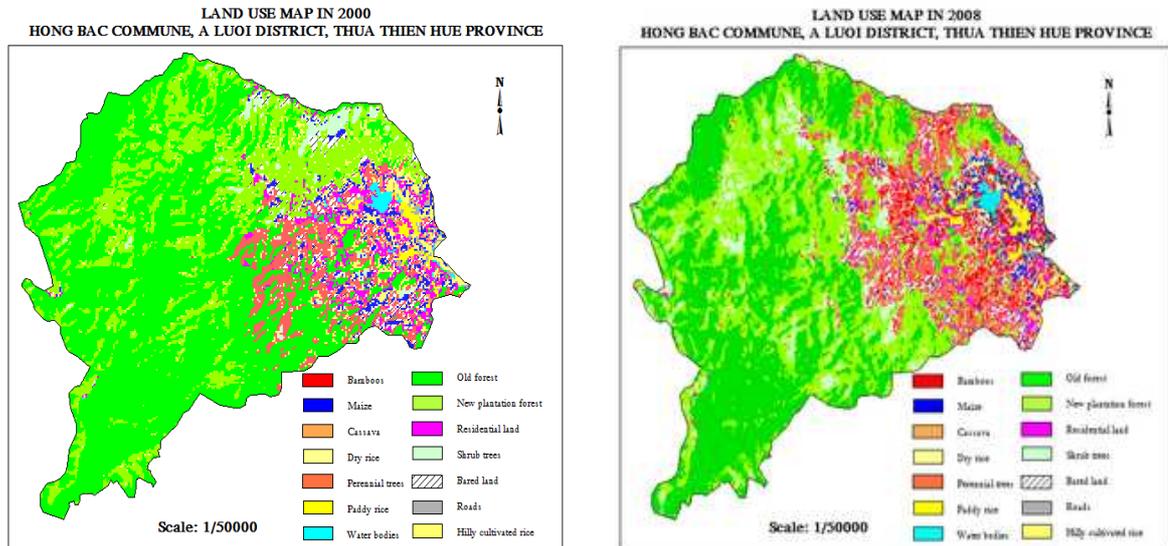
Oder	Content	2000	2005	2007	2008	2000/2008	
						Ha	%
	Total area	3151.00	3151.00	3152.99	3152.99	+1.99	
1	Agricultural land	389.00	410.20	374.70	380.85	-8.15	
2	Forestry land	1825.28	2069.90	2352.60	2352.60	+ 527.32	
3	Non-agricultural land	88.63	99.87	138.66	138.00	+49.37	
4	Unused land	848.09	567.03	283.18	276.71	-571.38	

Source: Hong Bac statistic office

The data in Table 3 and Map 2 (status quo of land use at the commune in 2008 and photo map of 2000, 2005 and 2008) show that total area of natural land of the commune is 3152.99ha and is slightly different from that of 2000 due to shifting from manual measurement and calculation methods to modern methods. There is a relative difference between the area of agricultural land in 2005 with that of the other years. The reason is in 2005, many households exploited fallow land for growing dry rice and cassava, however, a few years later, these land areas were planned by the government and transferred to the area of forestry land. The fact is there is a rotation of forestry land and agricultural land, and it is very difficult for the government to identify and control the areas of these two kinds of land. Because every year, in order to increase the food supply so as to meet the demands for 12 months, the local people have the tendency to use forestry-oriented area to grow agricultural crops, especially dry rice and cassava. Whereas, those households with better economic conditions or realising the value of forestry economy have shifted the area for dry rice and cassava to acacia. Therefore, the annual statistics data of land use forms can only reflect the actual situation relatively. In reality, there are still other differences due to spontaneous land use shifting of the local people. And this is one of the things that local people think they have the right to do. This issue will be analysed and clarified in latter part of the research.

There were great changes in the area of unused land from 2000 to 2008. According to statistics data, in 2000, the area of unused land at the commune is 848.09ha, the number dropped down continuously every year and by 2008, there was only 276.71ha of unused land. The reasons for the rapid decrease are that: in one hand, unused land was planned by the government and transferred to the forestry land; in the other hand, the local people reclaimed themselves for plantation and after that these areas were regularised by the government as agricultural land. The fact that the area of unused land decreases is a positive signal and the local people mainly exploit this land for improving their daily livings. Reality investigation shows that the exploitation of unused land is spontaneous. Regarding unused land, in reality, it is impossible to identify its specific border in order to relegate the management to each village, so the management is general for the whole commune (in terms of state law) and in terms of state management, people of village A have the right to exploit unused land of village B for agroforestry purposes and creation of income if the unused land of village B is still deserted and not owned before that and under the condition that the communal and district authorities have give permission. However, this is usually done in a different way – the people automatically go to the land to exploit it and do farming if they know that the unused land is not owned by anyone and after some crops or some years of farming, the state shall formalize the right of land use for them or they inform the authorities of this to be granted with the land use certificate. This makes the exploitation of

unused land in Hong Bac commune differed among the households and it is the household having the intention of exploiting unused land that decides on the quantity, location and area of the exploited land.



Map 2. Current land use type in Hong Bac commune in 2000 and 2008

Ability and level of unused land exploitation of each households of Hong Bac commune depends on the number of labours, diligence and financial capacity of each household. Tan Hoi village is a typical example for this fact. This is the village with the largest area of unused land in the commune, however, currently, almost all of the households lack cultivation area. The reason went back to the years before 2000. At that time, the villagers did not pay much attention to reclaiming and occupying fallow land, thus, people from other villages reclaimed the land for themselves. When the Tan Hoi's people were aware of the importance of exploitation unused land for production activities, it was too late then and there was no land left. By interviewing the people in other villages, most of the interviewees think that because the Tan Hoi people are idle and in the previous years, they depended mostly on hunting and wild resources in the forests for earning their livings, and were not enthusiastic in enlarging the area for growing dry rice and cassava like other villages. And accordance to local convention as well as the regulation of the government, it is possible for the people to exploit and reclaim unused land in other villages.

5.3 Changes of plantation system on agricultural land and unused land

Table 4. Situation and fluctuation of agricultural and unused land at Hong Bac commune

Unit: ha

Oder	Content	2000	2005	2007	2008	2000/2008	
						Ha	%
1	Agricultural land	389.00	410.20	374.70	380.85	-8.15	
1.1	Annual crops land	-	137.74	104.90	108.96		
1.1.1	Dry rice	-	32.10	30.10	32.10		
1.1.2	Paddy rice	-	33.80	30.21	32.80		
1.1.3	Other annual dry crops	-	71.84	42.00	44.06		
1.2	Perennial crops land	-	272.46	272.39	271.89		
1.2.1	Industrial crops	-	167.04	167.04	167.04		
1.2.2	Fruit crops	-	33.46	33.39	33.39		
1.2.3	Other perennial crops	-	71.96	71.96	71.46		
2	Unused land	848.09	567.03	283.18	276.71	-571.38	
	Plain unused land	0.28	0.28	0.28	0.03		
	Hill and mountain unused land		399.05	113.21	106.99		
	Rockey mountain unused land		167.70	169.69	169.69		

Source: A Luoi Department of Natural Resource and Environment

Generally, crop structure and system in the survey area in particular and in mountainous areas in general are not diversified. The basic reason is because the commodity consumption market is underdeveloped and the land is poor in fertility, thus, it is very difficult to adapt to new crops. Even though the soil here is poor in fertility, the people are aware of this and they want to have more fund to invest in fertilizers, which they know will increase productivity, especially in the case of rice. The evidence is that the better-off households in the village, commune have better economic conditions, so they know how to invest in buying fertilizers at the right time so each year the productivity in their land increases remarkably and their land is not as degraded as in the poor households who mainly carry out extensive farming without investment in fertilizers,

so the success of their harvest depends on the nature. However, finding other sources of income than farming on the land is difficult for them, so they cannot leave their land to earn their living by other ways. Most of the people say they are in real need for more fund or the supportive supply of fertilizers by the government so that they can fertilize their land, increase productivity and therefore the months of poverty can be reduced. Here sufficient supply of food for 12 months is the current need, only after that improvement of meals to have more nutrition will be targeted. Apart from depending on the land, many households have thought of raising poultry and animals, but this mainly depends on the ability to create a supply of food, capital to buy breeding animals and the husbandry only creates income in the households knowing the technique of breeding.

Figures in Table 4 and 5 shows the area and area changes of different crops on the agricultural land. The area for wet rice is the most stable one through the years. It is because people here cannot reclaim more land for growing wet rice. According to the statistics, though the area for wet rice at the commune is not much, just from 30ha to 34ha, this is the main food supply for each household. The data collected from household investigation show that wet rice can provide food supply to each family for 4-5 months in a year. Thus, in normal years, the local people can more or less feel secure about the food supply, however, in the years of bad harvest due to natural disasters, rats or insects, they meets many difficulties in finding other sources to supply their food demands.

Table 5: Main crop area on the agricultural land at Hong Bac commune

Year	Area of crops (ha)							
	Paddy	Dry rice	Maize	Cassava	Sweet potato	Beans	Vegrtable	Banana
2006	67.6	82.5	25.0	92.0	17.5	4.5	13.0	15.3
2007	66.7	85.7	45.0	100.0	16.5	5.0	10.0	16.5
2008	60.0	105.0	38.0	79.0	13.0	3.2	7.0	19.5

Source: Hong Bac statistic office

Dry rice is the second main food supply, just after wet rice. According to the annual land statistics collected from the Office of Natural Resources and Environment and according to the annual reality investigation data of the agriculture cadres of the commune, there are great differences in the land area as figures presented in Table 4 and 5. The reason for the difference of dry rice area in the survey area is because of data statistics and reckoning methods. Agriculture cadres inventory the area for dry rice as the actual cultivating area in the rice fields, this area includes both the assigned land and not-yet-assigned land which are spontaneously reclaimed by the local people for growing dry rice. Dry rice can provide food supply for 2-4 months of the year. Both two food supplies, wet rice and dry rice, are for their own use only, not for sale.

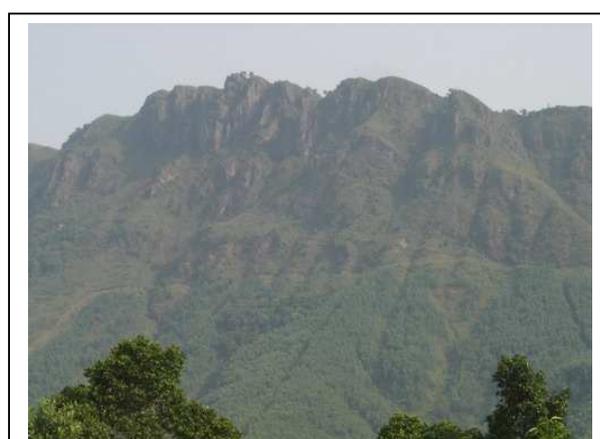


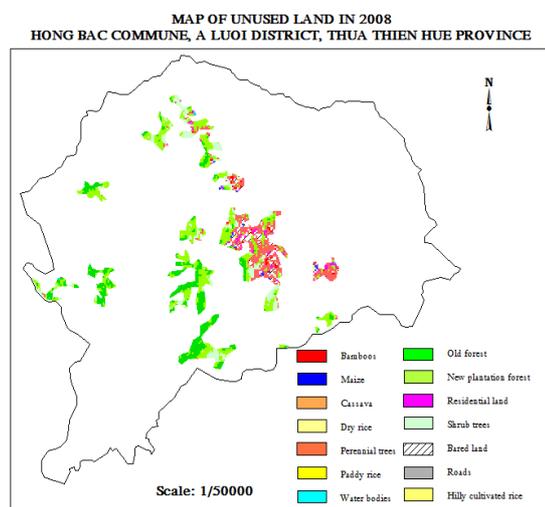
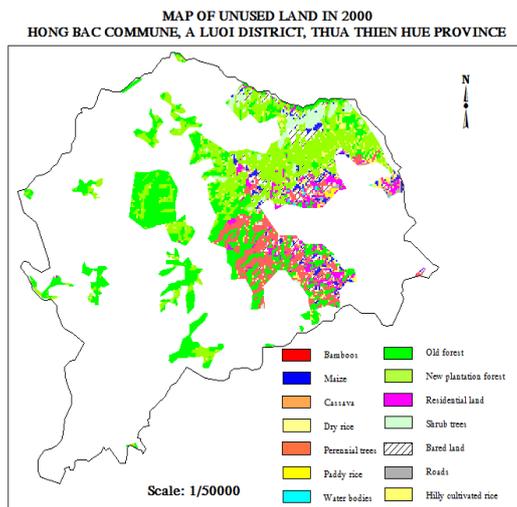
Photo 2. Situation on Agricultural and unused land at Hong Bac commune, A Luoi district

There is great change in the breed structure of wet rice with 81-100% of level-one rice breed provided by the government for poor families. Thanks to that, in recent years and at present, the average yield of some families is much higher than that of 5 years before. However, some households, who are in lack of fund and who do not totally understand the production capacity of the level-one rice breed, still use the harvested rice from their own field to re-grow or use old local breed. This leads to low productivity and underfed situation in long time. Another advantage for growing wet rice is that the irrigation reservoir of the commune can water for nearly 60% of the wet rice area. The rest are taken from springs, lake in upper parts and irrigated to the fields. Therefore, the condition of productivity decrease due to drought is greatly controlled.

Besides growing the two main crops: wet rice and dry rice, agricultural land and unused land are also exploited for growing other dry crops like cross-bred corn, cassava, banana, vegetables, banana,... These crops are grown for 2 purposes: for their own use and for sale. Cassava are often sold at home after harvest, whereas other products like vegetables, bananas are sold at A Luoi market with unstable price. The market is about 3-4 km away from home. Due to long distance, lack of means of transport, most of the local people go to the market on foot, thus, they have to get up very early in the morning, around 2-3am, take all the products to the market, exchange for other ones and then get back home very late in the afternoon. These products are the main income source to afford the essential needs in the family like food, clothes, and their children's studying. The growing of these crops depends greatly on the idleness or diligence of each household. Moreover, some newly-wed families or newly-detached households meet many difficulties due to lack of land for growing. Other disadvantages of purchasing these kinds of products are long distance and unstable price. However, all households are aware of the necessity to develop these crops besides growing rice so as to meet the food demands for 12 months in the year. Those households who do not grow additional crops like these or raise cattles meet many difficulties and some households continue to look for natural resources for their livings like fishing, hunting, getting firewood, getting bamboo sprout.

Regarding the seed for these crops, currently, the local people are using cross-bred corn provided by agriculture extension (encouragement) program and by buying from elsewhere. With the cross-bred corn, the productivity is much higher than the local corn and right now, it is very difficult to find the local corn bred in the commune. However, according to the local people, the quality of local corn is better than that of the cross-bred, however, due to low yield, local corn is put away. The local people are also using new bred for the cassava which was introduced by agriculture encouragement program 4-5 years ago. Other crops are using local bred with low productivity and are grown mainly in their gardens.

As for unused land, it is very difficult for not only the inhabitants but also the agricultural cadres of the commune to identify the area of unused land in reality. It is because of the overlapping of the way of understanding and the way of identifying the boundary between unused land and other kinds of land. According to figures presented in Table 4, there are still 271ha of unused land at the commune. However, there is no unused land left in the plain area because in the past years, the local people have exploited and reclaimed it for growing agricultural crops or growing forests. The government has measured, marked the area for these plantations and will grant land use Certificate of the area for each household in order to use for agro-forestry purposes. In mountainous area, there are about 106ha of unused land left which are mainly in Tan Hoi village and scattered in other villages at the commune. It is very difficult to identify the boundary of this land and forestry land due to long distance for residential area and blunt slope. The local people want to exploit the land for growing forestry plants and making fields, however, because of complicated terrain, big initial investment and no transport access, the people hesitate to exploit. Moreover, because the boundary is unclear, they do not dare to access as they think that the land belongs to the control of forest management. The biggest area of unused land is in the rocky mountain, when being asked about this unused land, the local people can name exactly the area and its location. However, it is hard to access due to long distance and high mountain.



Map 3. Current unused land use in Hong Bac commune in 2000 and 2008

5.3 Property rights of agricultural and unused land

5.3.1 Situation of granting land use and management Certificate for agricultural land and unused land in the commune

The direct management of agricultural land and unused land is conducted through two levels of management in the locality: land administration and agriculture cadres of the commune and the office of natural resources and environment of the district. Most of the agricultural land is assigned directly to each household, whereas unused land is assigned by the People's Committee of the District to the People's Committee of the Commune for general management. The management at district level is mainly overall projecting and exploiting orientation. However, there are still many complicated issues relating to the management of unused land in the locality due to differences in the understanding and thoughts of the management cadres and the local people and due to unclear boundary between unused land and forestry land. This leads to the mass exploitation and deforestation for making fields in recent years and up to now, most of the forest area which is 1-3 km away from residential area has disappeared and it is replaced by fields of dry rice, cassava and acacia.

The area of agricultural land of each household is divided into 2 parts: one for growing wet rice and one for growing dry crops. By 2009, each household has about 1000-2500m² of wet rice area on average. Particularly, some newly-wed households only have 500m² of wet rice or some even do not have any land for wet rice. This is because of the inheritance from their parents after detaching to new households. How big their work is depends mainly on what they are given. They truly have real demands of buying more land, however, no one want to sell because if they sell, the land is not of good price whereas their children generations will not have land for working then.

The land for wet rice cultivation is small and scattered, each field does not exceed 500m² and each household has to cultivate on many fields and usually rice fields are located along the small rivulets and streams in the commune, most people have exploited all the land area along the streams to create rice fields more than 10 years ago and now it is impossible to reclaim virgin soil as before. Though the local people consider wet rice cultivation a source of biggest income and want to have more land, this is impossible. Especially for newly established households, this is a big pressure because inherited land from parents is limited; due to a large number of children, each young family is given a small field, some are even not, so they have to find other ways to earn a living like husbandry, forestry, hired labour, etc.

All the wet rice area of the commune has been granted with land use Certificate for 20 years. The time of issue is in 2000-2002. This is the time of issuing land use Certificate for all the communes who received economic support from the government for this work. When being asked about the meaning of the land use Certificate, most of the interviewees said they did not know or simply it was the evidence or proof for later use. In term of properties rights relating to

land use Certificate, the local people hardly know anything. Some even do not remember when they put their land use Certificate at home or do not care about how long is the effective duration of the certificate, 20 years or how many years. According to them, it is the land of their ancestors and they have the rights to use it and give it to their children as inheritance without any interference from the government.

The area of dry crops like dry rice, cassava, corn, vegetables, beans is now being surveyed, measured and set boundary for separated paddy fields on the map by the government. However, currently, the map is still at district level, not commune level, and the area has not been granted with land use Certificate. When being asked whether they wanted to have Land use Certificate for the area of dry crops, most of them shown the unconcernedness. If the government issue, they will get it. However, it is not so necessary because it is their land with clear actual landmark and no one are allowed to change it. However, there are still some people who are aware of the importance of the land use Certificate in settling any arising dispute about land later on, without this Certificate, they do not know how to sue due to no availability of proof. As for the Government, the expense for measuring work and issuing the land use Certificate at the research area is taken from the state budget, the local people do not have to pay anything when receiving the Certificate or when their land is being measured. However, this still does not make the people more enthusiastic in registering land use and receiving certificate. The basic reason is that the local people do not understand the benefits of properties rights as well as do not have the needs of using these rights. Even with inheritance and transfer to their children, it is just verbal agreement without any notice or information for the local authorities so as to split or transfer the land use certificate.

In term of land management aspect, the measurement and issue of land use Certificate can partially stabilise the uncontrolled land exploitation and use situation, and the local people can feel secure once receiving the acknowledgement of the government about the land that they are working on. In order to enhance the awareness of the people about registering land use right and receiving land use certificate, authorities of all levels must organise propaganda programs about land laws to clearly explain the rights in the land use Certificate.

In term of unused land, the local people still have not been granted with land use Certificate, they mainly set the boundaries and localise on their own, then exploit or work on that land, some even localise the land and then leave fallow with the hope that if they do have the capability to exploit now, they will leave it to their children later when they get married. As for the area of unused land which has been reclaimed and exploited for a long time, the government will regularize by measuring the area, identifying the name of householders and then assigning the land to them with clear production purposes so that they can work for long term. However, as for the local people, the fact that the land is assigned for agricultural purposes or forestry purposes is not important to the people. They depend on the demands and price of the market to determine whether to grow agricultural crops or forestry one, as analysed above. This indeed creates so many difficultites for the management work as well as overall and detailed plan of the commune and district.

The situation of assigning agricultural land and unused land to each household for stable and longterm use in the locality does not follow the general policies of the government as what is happening in the plain area, which means the assigned land must include that in long and short distance, that of good and back condition,... Here, the land is assigned in accordance with the history of the land which means that the government only measure and assign the land area to the

household who has been working on it for years, without any disorder like the general land policy. This, in one hand, can avoid conflicts and contradictions among the inhabitants. On the other hand, it shows that the government have respected the local conventions (according to the local people, the land has been under their possessions for years and have been transfer from their ancestors through generations and no one can change or take their land to give to other people). Moreover, the assigning of agricultural land and unused land here can not apply the same rule of household and number of people in the household as that in the plain area, because as mentioned above, we can not take the land of this person to give to another one while the land fund reserve is no longer available. Thus, some big households have smaller land due to the fact that they did not exploit fallow land before. According to the survey, most of the area of land of all kinds of each household is less than the limit of 30ha prescribed by the government, thus it is very difficult to withdraw their land.

Currently, the land use projecting and planning of the commune is being conducted and by October of 2009, the result will be announced. As for the government, the announcement of land use projecting and planning will regularize the land exploitation situation and put it in organised order. As for the local people, they do not care about and do not know the land use projecting and planning work that the commune and district are working on. Because, the planning mainly aims at guiding the use of main land types and is based on the gathered opinions of related agencies of all levels while the people are not consulted with and usually land use planning schemes only have general characteristics with few specific solutions for each specific type of land use. Besides, people do not understand and can not exploit the information on the land use planning map compared to commune and district cadres so they see this a strange thing for them.

. This is really a big contradiction in carrying out the project later because the land use planning work is just subjective from the side of the government and for the sake of management work rather than for the sake of the local people who are actually working on these two kinds of land to bring about the best benefits for them. Thus, it is understandable that the local people are not interested in the land use planning work and if have, they need more detail and good solutions for specific land use types that they are having.

5.3.2 Description of property rights of agricultural and unused land at Hong Bac commune

Through depth interview and open discussion with 3 groups of objects, namely cadres of district level, cadres of commune level and households and village leaders, and by reality observation at the survey area with some paddy fields of agricultural land and unused land, the research can analyse the right bundles relating to agricultural land and unused land and the analysis results are presented in Table 6 and Table 7 of the research.

At the survey area, when being asked about the land ownership and property rights, it is hard for the local people to answer. According to them, talking about property rights and ownership is talking about the government. As for the local people, they hardly use these concepts. They all just talk about land and on the land use right. Therefore, in order to clearly identify and interpret all information relating to the right bundles, the research must approach the issue from different directions: observing the reality of the activities of local people on their land and comparing information from all sources.

The analysis and description of all the rights in survey area just focus on 2 groups of objects: government and households, because at the survey commune, there is no common management for agricultural land and unused land from groups of households or co-operative or community.



Photo 3. Discussion on property rights with local people at home and on the field.

Right of access: When being asked about the right of access, both the local people and governmental cadres are surprised at this question because according to them this is not a right, they obviously can access as a matter of course. Investigation shows that this right is not clearly stated in governmental documents, however, it is implicitly understood that this right is legal for both the government and local people. As for the government, land access is to check, supervise, measure and perform the land management right or obstruct any object who goes against the land use purposes. When being asked whether he often visited the land of the local people for performing his land management work or not, Mr Nguyen Van Sen – a land administration cadre of the commune – said that he seldom did so, except when there were conflicts or disputes or if required by the authorities of upper levels or by any projects implemented at the commune that need the support from the land administration cadres. Remembering the paddy fields of different households is also a very difficult task for the land administration cadres at Hong Bac commune whereas this is a prerequisite for the professional management capability of the cadres.

According to the local people, it is obvious that they can access to the land of their own and of other people at the commune. However, access here means that they can enter or pass by without damaging or creating any losses for the land owner. If accessing and creating losses to the properties of other people, the invaders will be strictly punished in accordance with local conventions, that is they have to offer chicken or pigs or something else so as to apologize; or the victim can ask for the interference and help from the local authorities. However, the negative

access has never been occurred in the survey area, according to the local people, because people here are highly aware of protecting the properties for each other.

Right of withdraw: The right of withdraw for agricultural and unused land belongs to the local people since the land has been assigned to them. The government does not charge any kinds of taxes or fees on the land from 2005 till now. Before, the local authority charged the tax for wet rice land to raise the commune fund. According to the local people, it is obvious that they can exploit their land and enjoy all the benefits it brings about. The more or less the benefits depends on the capability of intensive cultivation of different households. Some households can exploit on the land of other people with either of the 2 conditions: the land owner lends his land to another person for 1 crop or 1 year or 2 years, then the borrower can exploit and harvest on that land without paying any fee to the lender; or, the land owner rents his land to the lessor for a couple of years, and the lessor has to return the land back if required by the land owner, in this case the lessor has to pay rental fee. However, the latter hardly happens, normally, the local people lend or borrow the land together for cultivation. The land borrowing often occurs among the relatives or children within 1 clan or family. Unused land can also be exploited for the purpose of breeding cattles. However, one person cannot use other people's unused land for breeding and grazing and gaining profits from it. This is really a big obstacle for breeding cattles. Some households, though available with money, can not breed cattles because they do not have unused land for cattle grazing. This can be understood that formerly unused land is of common ownership, so daily grazing of cows, buffalos is free and everyone has the right to find a suitable place for grazing, but when the land is exploited by a household or maybe assigned to households, they do not let strange cows, buffalos in any more, which makes free grazing impossible. Therefore, investment in husbandry should take into consideration whether the grazing land is available without trespassing on other people's land because it is difficult to let their animals trespass on other people's land.

Right of withdraw for agricultural land is among the 9 legal and formal rights that the government assigns to the local people when granting the land use Certificate to them. However, as for unused land, the right of withdraw of local people is illegal and informal. Because, legally speaking, in order to formally exploit unused land, the local people have to apply to the local authorities. But, in reality, the local people assume that it is an obvious right. Unused land is the common land of the village or commune, and if they have enough capability, they can exploit more land for earning livings. According to statistics and reality observation, there is almost no unused land left at the commune which can be used for agricultural purposes. What is left is mainly the rocky mountain and is too far away from the residential area. This leads to a severe problem which is difficult to control, that is deforestation under the management of the government for making fields to grow dry rice.

Right of management: At governmental level, the management of agricultural land is managing the measurement, map establishment, and land use so as to comply with the governmental projecting. As for the land administration work, it manages the land on papers and in reality of each paddy field. As for the local people, they think the direct management of the land is their responsibility, they already set the boundaries for their land by fence or pond's edges. Right of management is the formal and legal right for both the government and local people. However, as for the local people, whether the government manages their land or not is so important because they think that this is their land and no one have the right to invade it. Although the government projects and assigns it to them for 20 years, it is still their land forever.

This way of thinking is partially legal, however, it can create difficulties if later the government wants to withdraw the land and changes to other using purposes or transfer to other households.



Photo 4. Harvesting of paddy rice at Hong Bac commune, A Luoi district

Right of exclusion: The government has the right of exclusion once the people do not follow the using purposes of agricultural and unused land, like using agricultural land on dry rice fields to grow acacia, or exchange land from one household to another without the permission from the authorities. However, it is very difficult to active this right in Hong Bac commune because most of the local people do not inform or pass the authorities of commune and district level when changing using purposes or changing land use right to another person, whereas, land administration cadres of the commune cannot supervise all things happening out on the fields. The local people think that it is their land with the acknowledgement of local authorities, thus, they have the right to grow whatever they want and give to whoever they like. In order to solve this, the government in the past years has not performed the right of exclusion or interference directly. They mainly mobilize and popularize all the regulations in the land laws so as to make the local people aware of them. Exclusion is the legal and formal right of the government in land management, however, in the survey area, it is very difficult to active this right and once the right is rigidly applied, it is likely to create conflicts between the local authorities and land owners.

As for individual households, the right of exclusion only exists when other people invade or exploit on their land without their permission. The local people understand that they have the right to obstruct when the government or any organisation withdraw their land without clear agreement, compensation and support. This happened once when a coffee planting company wanted to cooperate with the local people to use agricultural land for growing coffee trees. However, as the compensation and payment of work day was inadequate, the local people did not allow that company to grow coffee plants on their land no matter how the government interfered. As for unused land, the local people assume that they have the right of exclusion once the land is marked in reality with specific signal like fence, growing trees at the four corners of the land. Then, no one else can exploit and work on their land. In term of laws, this is an illegal right however, the local people really respect this convention and customs, thus, few conflicts occur. Therefore, the formal and informal rights of exclusion exist together.

Right of alienation: This is among the 9 rights of local people after being assigned with land and granted land use Certificate. Thus, the government cannot alienate agricultural land after assigning. The government can only manage the legal alienation of the local people

As for families who have agricultural land and unused land, most of the people do not know what the legal right of alienation is, they think that once the agricultural land is assigned and granted with Land use Certificate, they have the right to give, exchange without the approval of the commune and district. The land alienation here is mainly in form of inheritance from parents to children. After getting married and making a separate home, parents will give part of their land to them and certainly, both parents and children understand that that part of land belongs to the children without any documents or papers or any notification to the local authorities. The land alienation in the survey area does not pass the local authorities of commune and district level for approval. It is because local people do not understand the land laws. Moreover, in order to perform a legal alienation, they have to do complicated procedure. It seems to be impossible to them because of their low level of education, whereas, for generations, they follow current convention in inheritance without any problems or conflicts.

As for unused land, according to the local people, they have the right to alienate, give or lend the unused land to another person if they have already reclaimed it before then without noticing the commune's authorities or asking for their permission. This is an informal and illegal right because according to government regulations, the land is still under the general management of the People's Committee of the commune. If the local people want to use it for any purposes like cultivation or forestry, they have to apply to the local authorities and explain the reasons why they need more land. Once receiving the permission, they have to use it as per the orientation of the district and commune. However, it is just theoretically. In reality, the households do freely and then the government will regularize the land by measuring and granting Land use Certificate.

5.4 Discussion on property rights for agricultural and unused land at Hong Bac commune

By reality observation at the survey area and by interviews with groups of objects relating to the management and use of agricultural and unused land, as analysed in Item 5.3, it is proved that there is a binding relationship between the formal and informal properties rights in the reality of management and using the 2 kinds of land.

Before the promulgation of the policies relating to agricultural and unused land, most of the local people applied informal rights agreed by the inhabitants named as "local conventions or custom". All the exploitation of common resources had to follow these rules. The violation was strictly punished, and the local people could clearly remember the local conventions and the punishment rules.

Since the application of governmental policies to the survey area like land laws, laws of forest development and protection, policies on assigning agro-forestry land to each household,.... there have been several significant changes in the management manner of the local land. However, problems occurs as how to harmonize informal rules like local conventions and legal regulations like laws, decrees, ... co-existing together for a long time.

To the local people, no matter what the fact is, they always bare in their minds that they have lived here for years, the land is theirs, forests are theirs, natural resources in the forests and under water are theirs. Thus, no matter what the governmental laws are, the land is still theirs and

this fact is unchangeable. However, the people here are aware of the spontaneous and uncontrolled exploitation of land and natural resources can lead to the devastation of living environment and through the years, their community will meet many difficulties in earning their livings because nomadic farming and cultivation can no longer happen. Therefore, they understand that the governmental policies are to make their lives more stable. But the harmonisation between the currently existing rules – the local conventions – and the new ones – policies to be introduced and applied in the locality – meets so many obstacles. As for the people in plain areas, these policies can be applied strictly and inflexibly, but as for the survey area, all policies must be applied flexibly so as to avoid conflicts or disputes between the local people and the local authorities as analysed above, for example, in the survey area, land can not be assigned and divided as per the number of people in the household in accordance with Decree 64/CP of the government.

The limitations of formal rights are that they are applied in big scale and overall situations and conditions, thus, when applying to a specific locality like the survey commune, these rights are not so effective. For example, the right of management of agricultural land belongs to the government, whereas, the local people think that this right belongs to them, thus, they do not need to ask for the permission from anyone else. It is normally difficult and complicated for the local people to access to the guidelines for the performance of formal rights, whereas, the local conventions and custom generate from the agreement of the inhabitants in the villages and commune, thus, they are easy to understand, remember and perform.

One big challenge in the performance of the formal and informal rights is how to interlace the regulations in local conventions and in governmental policies together because in reality, sometimes, it is faster to settle a conflict by local conventions than by general regulations of the government. For example, formerly, before the promulgation of regulations on penalty for deforestation to make fields, if any household exploited the forbidden forest without the approval of the whole village or exploited on the land of other people, that household had to bare the punishment following the rules of the village to be headed by the village leader, minor penalty was to offer pig or chicken; and serious penalty was to offer ox. Thanks to this penalty, the deforestation was rare and the local people only practiced the nomadic cultivation in reclaimed land in lowland. Nowadays, according to the punishment sanctions of the government, deforestation for making fields is fined 1.5 -2 million vnd. However, this punishment does not affect much the local people and they continue to deforest because the punishment is hardly applied to them and if yes, they do not have enough money to pay. Therefore, obviously in this case, if the government assigns the right of management to each village and allows them to apply local conventions in punishing violation cases, under the supervision of the government, the situation will be much better

The land use right of local people to agricultural land when they are granted with Land use Certificate is completely different from the Land ownership. However, most of the people in the survey area misunderstand it as Land ownership, thus, they bestow for themselves the right of totally determining the using of the land to get benefits, as well as the right of alienation and of doing whatever they like. This creates many difficulties for land management and information registration. As for unused land, in term of legal, the local people must get the approval of the local authorities before exploiting and using, however, in reality, the people think that this is common land and it is their right to exploit for earning their livings or occupy it for their children

in the future, and this right is performed in accordance with the traditional conventions, that is the first one to reclaim has the right to use it forever.

In fact, in the bundle of 9 land use rights acknowledged by the government, the local people in survey area only perform 3 out of them, namely right of alienation, right of exchange and right of inheritance. However, when performing these rights, they perform in accordance with traditional way. That is to say they decide everything without the approval of the government. The land use rights are considered as permanent, whereas the government only allows them to be applied in the period of 20 years as for agricultural land reserving for short-day crops and 50 years for agricultural land reserving for longterm crops or for growing forestry.

Reality investigation and observation in the survey area show that crop productivity, people's income and livings are better, especially in the past 5 years. However, the relationship between the improvement of people's lives and the issue of Land use Certificate is vague. According to the local people, thanks to new policies on agriculture, agro-forestry encouragement programs, and the support of the government in term of crop bred, fertilizers,..., they can improve the productivity of the crops, thus, improving their lives. Besides, thanks to market's demands and advantageous commodity exchange, they have other income sources in addition to the rice. As for the Properties Rights, the performance of these rights are not clear and it is very difficult to expand the cultivated area because there is no fallow land left, whereas forestry land is under strict management of the government.

The exploitation of natural products and of unused land is greatly restricted due to strict management of the local authorities. However, the natural products like fish, bird, bamboo sprout, firewood,... are on the verge of exhaustion. Thus, it will not be profitable if we focus many labors on this, whereas this work is very risky. Currently, in each village of Hong Bac commune, there are only 2 or 3 households who specialise in working on this, most of the villagers earn their livings on agricultural crops.

6. CONCLUSION AND RECOMMENDATION

Agricultural land and unused land at Hong Bac commune have brought about the main income for the inhabitants in 5 villages of the commune. There are some changes in agricultural land however they are not significant because the area for agricultural land is already stable and it is very difficult to enlarge it. As for unused land, there are great changes from 2000 to 2008 because the local people have exploited and used it for forestry purposes or for agricultural production. The changes of land use purposes are mainly spontaneously done by the local people, and then, they are regularized by the government and are assigned to each household.

Currently, only agricultural land for growing wet rice are granted with land use Certificate, other kinds of agricultural land and unused land to be converted in agricultural land are now being measured and have not been granted with land use Certificate. However, the land assigning and issueing of land use Certificate in the locality do not greatly affect the production and living of the people, because, according to them, whether the government assign the land to them and grant the Certificate to them or not, it is still their land and they can permanently exploit on it throug generations.

All the rights in the right bundles about properties on agricultural land and unused land are really exist. However, as for the government, these rights are formal and admitted by the laws, but as for the local people, they are informal rights and they follow the traditional customs which

have great impacts on their lives. The performance of these rights is partially similar to the bundle of 9 rights prescribed by the Land laws of 2003. However, it is very difficult for the local people to distinguish between the formal and informal rights.

Although the local conventions no longer exist and be valid in the locality, in the minds and actions of the local people, there are still overlaps between the formal governmental laws and the traditional local conventions when they perform the rights. In which, according to them, many rules in the local conventions like punishment, ways to identify the boundaries of reclaimed land, are more effective.

The local people normally perform the right of management, right of exclusion and right of alienation in accordance with their ways of thinking, rather than following the regulations of the government policies. Therefore, it is very difficult to apply formal laws in these cases and it is likely to occur conflicts about land between the government agencies and the local people:

People can mostly understand and implement land rights, including land already granted with land use certificates (like wet rice land) as well as land being considered for granting to household's management and use (like common land spontaneously reclaimed or forestry land), but the understanding is still vague, so it is very important and essential for the local authorities to popularize the policies and rights of land use in a clear way to the people so that they know how to exploit and use the land safely, relevantly, legally, avoiding contradictions afterwards.

The exploitation of agriculture land and unused land only brings efficiency and economic value, contributes to reducing poverty for each household when both the people and state authorities together discuss and find solutions to the plant-animal structure relevantly, ensuring both self provision and supply for the market and, essentially, combining local and scientific knowledge.

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