

Forest Tenure Reform in Vietnam: What Lessons Can Be Learned for Policy Implementation and Poverty Alleviation in Forest Communities?

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Abstract:

The last two decades have witnessed radical changes in forest tenure legal framework in Vietnam. While in early 90s, the state was the primary manager of forests, the approval of the Forest Protection and Development Law in 1991 and Land Law in 1993 opened the door to a national legal framework that took forest management out of solely state hands. Subsequent legal enactments have elaborated these forest management arrangements to include private property. In 2003 and 2004, revisions to the Land Law and Forest Protection and Development Law enabled legal recognition of community in managing land and forest resources. This evolving legal framework for local management and use of forests creates the potential for local people to benefit from forest use, and for forests to contribute to poverty reduction.

This paper provides an analysis of the on-the-ground pictures of the implementation of forest tenure reform in Hoa Binh (in the Northwest Mountain) and Dak Lak (in the Central Highlands) provinces in Vietnam. Using empirical evidences from eight villages, the authors argue that while forest land allocation (FLA) has been widely implemented, it has not been able to provide necessary power over forest to local people. The state still maintains significant control over the allocated forest area. The practice of power relation, pressure from market, active supports from donor funded projects and customary practices among other factors have contributed to shape forest tenure arrangements at village level. Furthermore, expected effect of FLA on poverty alleviation has not been reached. By contrast, there is a danger of reverse impact from FLA on poverty alleviation.

Keyword: Vietnam, forest land allocation, poverty alleviation, power relation, forest management

1 Introduction

After the end of the American War (which is often known as Vietnam War in Western literature) in 1975, state management of forest resources was practiced all over Vietnam. State forestry departments were established and put in charge of forest administration at different levels. State forest enterprises (SFEs) were set up as state organizations in charge of forest exploitation and plantation. As forested area quickly went down during the years of SFE management⁴, it became clear that the current SFE system was not able to manage the national forest resources. At the same time, successes from the *Doi Moi* (economic reform) and agricultural land tenure reform in 1980s, which contributed to position Vietnam as one of the top rice exporters, provided an inspiration for forest tenure reform. In early 1990s, forestry sector of

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⁴ Between 1976-1990, an estimated amount of 190,000 ha of forest was lost per year nationwide

Vietnam changed in an attempt to meaningfully include relevant stakeholders in the management of forest resources. Over the last 15 years, significant progress has been made in forest tenure reform. Forest area officially under the management of local people has expanded from almost nothing in the early 1990s to nearly 3.5 million ha (27% of the national forest area) in 2006. However, until now little has been known about the extent to which such tenure reform has worked in practice and how it has affected local people's livelihoods and wellbeing.

In this context, this study aims to acquire better understanding about forest tenure situation and the implementation of Vietnam's forest tenure policies. Two key research questions guide us throughout the course of the study: 1) what is the current situation of forest tenure in the study provinces (e.g. who owns what forest and how much)? and 2) how are forest tenure arrangements in the study sites implemented and what are the factors influencing the implementation of forest tenure at the local level? Data used for analysis in this paper comes from eight villages in Hoa Binh and Dak Lak provinces of Vietnam. The process of data collection, data analysis, and report writing took place between March 2007 and January 2008.

The paper proceeds as followed: after this introduction, Section 2 provides an overview of the changes in Vietnam forest tenure policies since 1990s to date. Section 3 then continues with basic information about the study sites. In Section 4, the methodological issues related to data collection and analysis are briefly presented. Section 5 then discusses the forest tenure situation in the study sites, which gives the answer to the first research question. Section 6 elaborates the answer to the second research question. Finally, Section 7 summarizes major findings and discusses their policy implications.

2 Changes in Forest Tenure Policies in Vietnam Since 1990s

Since 1990s, legal framework related to forest tenure in Vietnam has been changed toward inclusion of various stakeholders in the management of the forest resources (see a summary of related legal documents in Box 1). In August 1991, Forest Protection and Development Law (FPDL) was passed, providing legal framework for allocation of forest resources to diverse stakeholders (including organizations and individuals) for management, protection and commercialization. It also established a legal base for setting up management boards for protection forest and special use forest. In July 1993, a Land Law (LL) was promulgated, recognizing long-term, renewable land use title for land users. In addition, the law officially recognized five rights of the titleholder: rights to exchange, transfer, inherit, mortgage and lease. In general, the two laws laid down the basic framework for various management arrangements in addition to state property.

Following the legal framework established by 1991 FPDL and 1993 LL, efforts were made to introduce private forest management arrangements. While the state still maintains the right to reclaim the forest for public purposes in case of need, it has tried to give the necessary tenure rights to different stakeholders to involve them in forest development. Accordingly, various policies have been issued, guiding the implementation of forest allocation process. On 15 January 1994, Decree 02/CP was issued, providing a framework for transferring management of forests from the state to local organizations, households, and individuals. On 4 January 1995, Decree 01/CP was promulgated, guiding allocation of land through contracts for agriculture, forestry, and aquaculture purposes. Individuals, households, and household groups

are now eligible for long-term contracts with state organizations. On 16 November 1999, Decree No. 163/1999/ND-CP was issued, guiding the allocation and lease of forest land to organizations, households, and individuals for forestry purposes.

By the end of 1990s and early 2000s, forest management by household groups and by a whole community/village emerged as a new form of forest arrangements. In fact, forest management by local community is not a new undertaking. It is a traditional practice of many forest communities (Le 2001; Nguyen et al. 2004; Pham 2004; Tran 2005).

The changes in the legal framework related to forest tenure during the 1990s have created a legal background for involvement of local people and communities in forest management. Experiments of forest management by local communities all over the country finally contributed to the legal recognition of community land tenure (by the new Land Law in November 2003) and community forest tenure (by the new Forest Protection and Development Law in December 2004). However, it is important to note that the 2004 FPD Law only recognizes rights to use forests (i.e. right of withdrawal of forest products) but does not indicate that a community has rights of ownership with regard to the forest it is allocated.

Box 1: Major Milestones in Policy and Legal Framework

- Aug. 1991: Law on forest protection and development passed by the 8th National Assembly, marking an effort to involve local people and different economic sectors in forest protection and development
- Jul. 1993: Land law passed by the 9th National Assembly, stipulating the rights of title holder to lease, exchange, inherit, mortgage, and transfer land use title.
- Jan. 1994: Government decree 02/CP on allocation of forest land to local organizations, households and individuals.
- Jan. 1995: Government decree 01/CP on allocation of land through contracts for agriculture, forestry and aquaculture purposes.
- Nov. 1999: Government decree 163/1999/ND-CP on land allocation and lease for forestry purposes.
- Nov. 2003: Land law passed by the 11th National Assembly, recognizing the legal status of community in land tenure
- Dec. 2004: Law on forest protection and development passed by 11th National Assembly, recognizing common property as a legal forest management arrangement

3 The Study Sites

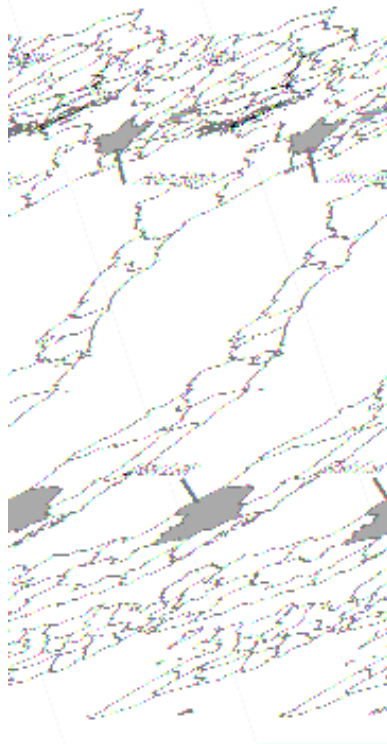
Hoa Binh province in the Northern Upland and Dak Lak province in the Central Highlands were covered in the study (see Figure 1). The two provinces were selected to represent the diversity in socio-economic and forest tenure policy conditions in the country as a whole.

Hoa Binh province is located in Northern upland region where hilly and mountain area accounts for three quarters of the territory. Within Hoa Binh, four villages in Lac Son and Mai Chau districts (two in each district) were selected. The two villages in Lac Son district, namely Song and Khanh, are located in the semi-upland area with relatively good infrastructure conditions. Muong is the most populous ethnic group in the villages. Local livelihood is strongly based on agriculture with most prominent crops being paddy, maize, and sugar cane. Livestock raising, particularly cattle and pig, also plays a role in local economy. The two villages in Mai Chau district, namely Noong Luong and Pha Danh, are located in the mountain area of the province with

relatively difficult access, particularly during rainy season. Thai people are the dominant ethnic group in both villages. Agriculture is also the most important source of livelihoods, focusing on cropping of paddy, maize, and other annual crops. Livestock (cattle, buffalo and pig) raising is also well developed in both villages.

Dak Lak is located in the Central Highlands region. Within Dak Lak, four villages of three communes in two districts have been selected: Diet and T'Ly villages in Ea Hleo district, Cham B and Tul villages in Krong Bong district. At present, access to the two villages in Krong Bong district is relatively good. Cham B is dominated by Ede people and Tul is populated by the Mnong ethnic group. Cropping of upland coffee, maize, beans, and rice is the most important source of livelihoods in Cham B. In Tul village, coffee, maize, and paddy cultivation is popular. Livestock raising is common in both villages. T'Ly and Diet villages in Ea Hleo district have medium quality road access. Both villages are dominated by Jarai ethnic people. Local livelihoods are mostly agricultural based, focusing on pepper, coffee, maize, and upland rice. Cattle raising is also common in these two villages.

Figure 1: Location of Hoa Binh and Dak Lak



4 Data collection and analysis

In each study village, primary qualitative data were collected through two focus-group discussions and two key informant interviews with a traditional village elder and a state-elected village head. In addition, researchers' impression sheet also provided extra qualitative information about the study villages. Quantitative data were collected from household survey based on pre-prepared questionnaire. A stratified random sampling method was applied to select households for survey in each village. The stratification was done on well-being as previous studies indicate that a household's well-being is influential to its legal access to and use of local forest (Nguyen 2005; Sikor and Nguyen 2007)). Altogether, 180 households were

surveyed, representing a sample of 28.7% of the total number of households in the study villages (34.5% of the total households in Hoa Binh and 23.7% in Dak Lak).

Beside primary data, secondary data in terms of literature and statistics at local (commune and village) and provincial levels were collected for the sake of the study. Consultations with resource persons (e.g. decision makers) at provincial and national levels were also held to discuss issues related to the study.

The following approaches were employed for data analysis and interpretation:

- Qualitative analysis: qualitative descriptive analysis was the main analytical tool employed in study. Various tools were in use, including data reduction, text discussion and description. In addition, an extensive use of charts, figures and pictures also provided additional qualitative analysis to the report.
- Quantitative analysis: quantitative analytical tools were also employed to complement qualitative analysis. Quantitative data and simple statistical calculation of such data, such as percentages, presented in tabular or figure formats were used in this report.
- Expert judgment and consultation: Expert judgment was employed from survey design through data collection at the local level toward completion of the synthesis report. It was done internally within the research teams as well as externally through consultation with local people and experts at different levels.

5 Forest Tenure in Hoa Binh and Dak Lak Provinces

5.1. Forest Tenure Situation at the Provincial Level

To date, there are eight different forest tenure groups in both Dak Lak and Hoa Binh provinces (see Table 1):

Individual households: Forest management by individual household was not existent in the past, both in terms of statutory law and customary practices. It has only been introduced in both provinces since the implementation of FLA.

Communities: Forest management by a whole community has been traditionally practiced by ethnic minority groups. In Dak Lak province, FLA has created a legally recognized form of community forest management (CFM) in province. This new form of CFM may include a whole village or just simply a group of households. The striking difference between traditional and introduced forms of CFM is that the latter is entitled to a forestland use title, which implies the legal recognition of the rights and benefits of the community members with regard to the forest resources.

Communal people's committees (CPC): CPCs only temporarily take care of the forest areas that have not been officially allocated to any other stakeholders yet. Due to this nature, CPCs do not have the right to use the forest. In fact, the forest areas under management by CPCs are often informally "open access."

Management boards for protection forest (MB-PF): MB-PFs are state organizations whose main task is to manage forest areas that are classified for protection purposes. MB-PFs received funding from the state (mostly from local government) for managing the forests under their responsibility.

Management boards for special-use forest (MB-SUF): Similar to MB-PFs, MB-SUFs are also set up and run by the state. Their main task is to conserve the forest areas allocated to them.

State-owned companies (SOC): SOC, formerly known as state forest enterprises (SFEs), are set up and owned by the state. Their main task is to manage and commercialize the forest areas allocated to them. This tenure group has recently gone through a major structural change as a result of state policy on renovation of state forest enterprises.

Joint-venture companies (JVC): JVCs managing forests include both state- and private-owned companies. They are in charge of protecting the allocated protection forest and commercializing the production forest.

Armed force: The armed force is mostly in charge of the forest areas used for national security purposes.

Table 1: Forest Area by Tenure Groups in Hoa Binh and Dak Lak

Tenure groups	Hoa Binh		Dak Lak	
	Forest area (ha)	Number of actors	Forest area (ha)	Number of actors
1. Households	167,890 (79%)	75,846	4,740 (0.8%)	1042
2. Communities	887 (0.4%)	1	12,942 (2.1%)	106
3. People's Committees	3,735 (1.8%)	67	71,653 (11.6%)	100
4. MB-PFs	6,639 (3.1%)	n/a	34,686 (5.6%)	2
5. MB-SUFs	9,416 (4.4%)	n/a	233,582 (37.9%)	5
6. State-owned companies	8,799 (4.1%)	n/a	235,334 (38.2%)	15
7. Joint venture companies	4,152 (2.0%)	n/a	5,830 (0.9%)	2
8. Armed force	11,132 (5.2%)	n/a	17,643 (2.9%)	1
<i>Total</i>	<i>212,650 (100%)</i>		<i>616,410 (100%)</i>	

†: numbers in parentheses represent the percentage of forest owned by the group over the total forest area

In terms of forest type under management of each tenure group, MB-SUF is the only group that manages special-use forests in Dak Lak province, yet it is not the case in Hoa Binh. In Dak Lak, no other group takes care of special-use forests, and MB-SUF is not managing any protection or production forest. By contrast, special-use forests are under management of actors other than MB-SUF, including individual households. Nevertheless, the special-use forest area under management by individual households is only non-forested (bare) land. Production and protection forests have been given to various tenure groups for commercialization and protection purposes. No disaggregated data is available for the last five groups in Hoa Binh province.

In terms of forest quality, MB-SUFs are managing the best quality forests in both provinces. This is clearly explained by the fact that special-use forest areas are strictly protected for conservation purposes (e.g. biodiversity, species conservation, cultural heritages). In Dak Lak province, most of the natural forest areas are under management of MB-SUFs and SOCs. By contrast, individual households take care of the largest area of natural forest in Hoa Binh province. However, forests under management of individual households and communities are of low quality, as they

are mostly degraded natural forests (from previous logging of SFEs), plantation, and bare land.

5.2. Forest tenure Arrangements in the Study Villages

Two distinctive pictures of forest tenure are found in the study villages. In all villages in Hoa Binh, individual-household forest management is found, whereas in all villages in Dak Lak, local people manage forest resources on a collective basis (see Table 2).

In Song village of Hoa Binh province, forest resources were allocated to only 37 out of the total 62 households in the village (60%). The situation is also similar in the other three villages. In Khanh village, forest resources are being managed by 16 households (23% of the total villagers). In Noong Luong, 53 households (87% of total villagers) in the village have legal rights to forest, and the corresponding number in Cha Day village is 78 (80% of the total population).

In Cham B village of Dak Lak province, forest is currently managed by five groups of Ede households. The intention to only allocate forest to Ede people during the FLA process in Cham B has excluded the Kinh households also living in the village from participating in management of allocated forests. In the other three villages in Dak Lak, namely Tul, T'Ly and Diet, local forest resources are being managed by the whole community, which necessarily means that every community member, regardless of original ethnicity, is a legal manager of the forest. In Diet and T'Ly village, forest was allocated to individual households for management at the beginning of the FLA program in the province. Later on, however, reallocation of forest took place and forest has since then been managed by community.

It is important to note that although forests have been allocated to local people in the study villages, they are legally required to get permission from competent state bodies, (e.g. local administration) with regard to collection of timber and use of land in the allocated area for non-forestry purposes. In the end, actual control over the forest is still maintained by the state, though the rights have been formally given to local people.

Table 2: Area of Forest Allocated to Local People in the Study Villages

Village names	Area of allocated forest (ha)	Forest recipients [†]	Forestland use title given to
Hoa Binh province			
▪ Song	110.2	37 HHs (60%)	37 HHs
▪ Khanh	116.4	16 HHs (23%)	16 HHs
▪ Noong Luong	206	53 HHs (87%)	48 HHs
▪ Cha Day	185.1	78 HHs (80%)	78 HHs
Dak Lak province			
▪ Cham B	567.5	5 HH groups of 38 HHs (57%)	All groups
▪ Tul	1130.7	Community of 69 HHs (100%)	Community
▪ Diet	293.5	Community of 74 HHs (100%)	Community
▪ T'Ly	1,127.5	Community of 127 HHs (100%)	Community

[†]: Number in parentheses refers to percentage of forest recipients over total households in the village

In terms of forest type, production forest is the major forest type currently managed by study villagers. This type of forest is found in seven out of eight villages. Protection forest is present in three cases: Cha Day and Noong Luong village of Hoa Binh province and in Tul village of Dak Lak province.

The quality and quantity of forest resources being managed by local people vary across study villages (see Table 2). In general, forest quality in study villages in Dak Lak province is better and the average size of forest per household is larger than those in Hoa Binh province. On average, each household with forest in all eight study villages has around 7.6 ha. This average figure in the villages in Dak Lak is 10.1 ha, compared to only 3.4 ha in Hoa Binh villages. Song village has only 2.98 ha of forestland per household with forestland. Their forest is of low quality. Of the total 110.2 ha of forestland, there are 92.5 ha poor natural forest and 17.7 ha plantation. Similar to Song, the dominant forest in Khanh village is also poor natural vegetation. However, average size of forestland per household in Khanh is much larger than Song, at 7.28 ha. Noong Luong and Cha Day villages have medium quality natural forest (with some plantation), but the average size per household is lower than that of Khanh, at 3.89 ha and 2.37 ha, respectively.

It is important to note that in addition to the forests allocated to people in the study villages, there are also other forests, which include forest allocated to people in the neighboring villages and those belonging to other tenure groups. In Cham B and Tul villages, the surrounding forest areas also include forests under management by CPC, local SOC, and forests allocated to other villages. Similarly, there are forests under management of local SOC and those allocated to other villages around Diet and T'Ly. In Song and Khanh villages, part of the surrounding forests also is under management of local SOC. In the case of Noong Luong and Cha Day, some forest areas around the villages have also been allocated to their neighbors. However, we were not able to collect quantitative data about such forests in both provinces.

6 Implementation of Forest Tenure at the Local Level

6.1. Forest Land Allocation Process in the Study Villages

Forest land allocation (FLA) in the study villages in Hoa Binh took place in 1993-1994, following Decision 64/ND-CP dated 27 September 1993 on allocation of agriculture land to households. In study villages in Mai Chau district, allocation of forests was on the basis of current upland field. Local households were given forest near their existing field so that it would be easy for them to take care of the allocated forest. By 1998, forestland use titles (or Red Book Certificate for its color- RBC) were given to recipient households. However, there was a problem with the title. Instead of serving as proof of full legal rights⁵ to forest land, it was stated in the RBC that the forest was only contracted to RBC holder. Consequently, these forest RBCs did not grant their holders the full rights to forestland as stated in the existing land law and thus did not carry much value to the local people.

A similar process and problem with regard to FLA happened in Song and Khanh villages of Lac Son district (Hoa Binh). Local people in the two villages were given forestland in 1993 and received the forest RBC later in 1995. The forest RBCs that people in Lac Son received also stated that forests were only contracted to them.

⁵ E.g. rights to transfer, to exchange, to mortgage, to lease, and to inherit the land use title.

Forestland allocation in Diet and T'Ly villages in Dak Lak province started in mid 1998 and was completed by early 2000. Around 293.5 ha of forest were allocated to 20 individual Jarai households in Diet. In T'Ly, only nine households were selected to receive a total of 139.1 ha of forest. Forest RBCs were handed over to recipient households in both villages March 2000. However, people in these two villages were not happy with the outcomes of this FLA because it gave legal access to forest to only a small number of households (less than 40% of households in Diet village and less than 10% in T'Ly) and management of forest by individual households, which was introduced from outside (Nguyen 2005), was not in line with communal forest management arrangement that the villagers have traditionally practiced (Tran 2005). Consequently, local people demanded a more equitable allocation of forest. Local authority responded to this request. Reallocation of forest took place in 2003 in T'Ly village and a total number of 1,127.5 ha of forest (including 139.1 ha forest originally allocated to nine households) were allocated to the whole T'Ly village. In Diet village, reallocation of forest took place in 2004. The 293.5 ha of forest originally allocated to 20 households were reclaimed by the state and reallocated to a whole village.

In Cham B village of Dak Lak, FLA program started in early 2000. By February 2001, field allocation was completed and forest RBC handed over to recipient groups in June 2001. A total of around 569 ha of forest were allocated to five recipient groups of 38 Ede households in Cham B. In Tul village, FLA took place in 2001. A total area of 1,130.7 ha of forest was allocated to the whole village. Forest RBC was granted to the village in 2002.

6.2. Actual Rights to Forest by Local People

6.2.1 Overview of Legal Rights to Forest Understood and Realized by People

By law, forest recipient households are legally entitled to five major rights with regard to forest RBC – namely rights to transfer (i.e. to pass the title to other persons), to exchange (for other title), to inherit (or to pass the title on to family members), to mortgage (for loan), and to lease (to other persons). This theoretically applies to forest recipient households in study villages in Hoa Binh (where forestland was allocated to individual households), Cham B village in Dak Lak (where forestland was allocated to household groups), and Diet and T'Ly villages of Dak Lak for the period of 2000 - 2003/2004 when forestland was allocated to individual households in the villages.

Local people have different understanding of the rights to forests. Most surveyed households, including those in the villages where forestland was allocated to whole communities, think holders of forest RBC can pass their rights to forests on to their children. Knowledge of other rights is relatively limited. Right to exchange is the most alien to local people. Only 9% of the interviewed households know that RBC holders can exchange their forest title to other people. Knowledge of people about the other three rights is better than about right to exchange, yet not more than 20% of the surveyed households have an idea of them.

In reality, right to inherit has been practiced in both provinces. In Cham B village of Dak Lak, people receiving forestland from the state grew old and left their forest rights to their children. Similarly, people in study villages in Hoa Binh received forestland from the state and left this forest to their children. In both cases, inheritance of allocated forestland is done in practice with agreement by local

people. Such change was not officially recorded and thus no amendment of RBC has been made.

Right to mortgage has also been realized. In Diet village in Dak Lak, six households were able to mortgage their RBC for loans from a local bank in 2002. However, this was a special case as these households were covered by a development project that supported pilot forest farm development in the village. In Hoa Binh, people in study villages in Lac Son were able to mortgage their forest RBC for loans. However, people in Mai Chau also tried but did not succeed because the bank did not accept RBC for protection forest, which was difficult to liquidate in case of default.

Realization of the right to lease has been observed only in Cham B village. Local people cleared allocated forestland for cultivation land and leased the field to other people. However, this type of lease was only short-term and was not officially recorded.

Finally, no one in the study villages has ever realized their right to transfer. A similar situation is also found with right to exchange.

6.2.2 Actual Forest Use and Management in the Study Villages

Results of household survey show that actual uses of forest resources vary across study villages, particularly timber logging and land clearing. In general, collection of NTFPs seems to decline compared to before FLA. By contrast, clearing of forest for crop cultivation and logging of timber appear to increase. Nevertheless, the level of changes in the appropriation of allocated forest resources differs across villages.

In Hoa Binh province, logging of timber and clearing of forestland for cultivation also have occurred since completion of FLA. In Song and Khanh villages, local people converted not only bare land at the edge of the forest but also inside the forest area into agricultural land. They also abused the right to collect dead trees for fuelwood by means of cutting big living trees and waiting until the logs dry to bring them home. By contrast, few land conversion or timber logging activities have been observed in Cha Day and Noong Luong villages in Mai Chau district.

In Cham B village, clearing of forestland for cultivation purpose is the most popular of all study villages. This activity started at the time of FLA and boomed in the years after (see Nguyen 2005). By contrast, timber logging is the most common in Diet and T'Ly villages. In both these villages, demand on timber for pepper cultivation had put a high pressure on timber trees in the forest in this area⁶. As a consequence, timber logging has become a very popular activity in Diet and T'Ly. The latter is also known for its unique example in Vietnam about commercial logging of timber from natural forest by local people. In August 2006, T'Ly villagers harvested 370 cubic meters of round logs from its allocated forest area. The timber was then sold at the price of 616 million VND, which brought a net benefit of 283 million VND—a rather handsome amount of income for the local people. In Tul village, neither clearing of land nor logging of timber from the allocated forest has been popular as in the other three villages.

Beside appropriation of allocated forest resources, local people also invest in tree planting. Similar to other forestry activities, the scale of tree planting varies across

⁶ Timber poles of around 0.2 m in diameter by 3-3.5m in length are preferred materials by local people in construction of stance for pepper to climb on (see also (Nguyen 2005)).

study villages (see Table 3). In Hoa Binh province, forest plantation is present in all study villages. Between 1994-1998, local people planted Acacia in their allocated forest under the support from a national reforestation program. By now, the plantations are already in their second and third production cycle. The four villages in Dak Lak are of two extremes. In Cham B and Tul villages, with the support of a UNDP small grant program, a total of 190 ha (140 ha in Tul and 50 ha in Cham B) have been planted with Acacia and Eucalyptus. By contrast, almost no plantation has been found in Diet and Taly villages.

Table 3: Forest Plantation in Study Villages

Hoa Binh province		Dak Lak province	
Village name	Size of plantation (ha)	Village name	Size of plantation (ha)
Song	17.5 (15.88%)	Cham B	50 (8.81%)
Khanh	30.4 (26.12%)	Tul	140 (12.38%)
Cha Day	30 (16.21%)	Taly	0 (0%)
Noong Luong	11.1 (5.39%)	Diet	4 (1.36%)
<i>Total/average</i>	<i>89 (14.41%)</i>	<i>Total/average</i>	<i>194 (6.22%)</i>

Source: village survey

Note: Numbers in parentheses refer to the percentage of plantation over total allocated forest area. Area of plantation in Diet village is only estimated.

6.2.3 Factors Influencing Realization of Endowed Rights by Local People

Various factors have influenced the realization of legal rights endowed to local people. In the discussion that follows, we focus on five major groups of factors, namely support from development projects, illegal logging (of timber products), the gaps between statutory laws and customary practices with regard to forest tenure, presence or absence of tangible benefits and clear benefit sharing arrangements, and the participation of local people in forest tenure reform process. It is important to note that these factors never come singly in reality and that the outcomes of forest tenure reforms at the village level are always influenced by a set of both negative and positive factors.

Support from Donor Projects

Support from donor projects was present in various steps in FLA process in Dak Lak, proving necessary back-up for the program to function and for the rights endowed to people to be realized. A German funded project played an important role in catalyzing the FLA process in the province. As devolution of the rights to natural forests to local people was new in Vietnam, there was high reluctance within the forestry sector in Vietnam to allow local people to manage natural forests. In this circumstance, the project reviewed and introduced experiences with forest devolution from other countries around the world with the aim to encourage Dak Lak to proceed with its FLA. During the course of FLA, the project provided technical support, which included elaboration of necessary guidelines and policy and trainings on facilitation skills and participatory approaches. Most importantly, the project transferred the needs to respect local people's traditional practices (in forest and land uses) to its staff members and partners.

After the end of forest allocation, supports were provided by another German funded project (in Diet and T'Ly villages) and UNDP small grant program (in Tul and Cham

B villages) in terms of 1) development/ revision of village forest development and protection regulations, and 2) implementation of village regulations. In T'Ly village, local people were also assisted in getting necessary permission to harvest 370 cubic meters of round logs, having them certified by local forest administration, and freely auctioning them.

Illegal Logging

Demand from the domestic (local) markets put pressure on the forest resources in both study provinces. In Dak Lak, the development of pepper growth gave rise to the demands for pepper pole by local people. In Diet village, for example, between 1999–2002 there was an expansion of more than six hectares of pepper, implying a collection of about 7,000 timber poles from the local forests (both those allocated to study villages and those are not). Yet, none of this timber was collected with logging permits.

In Song and Khanh villages, the rise in timber demands by not only people in the surrounding areas, but also in the other provinces (see also To and Sikor 2006) has ignited unauthorized logging of timber resources (in the allocated and non allocated forest). The situation worsened when early violators were caught but did not receive just fines. Such use of forest resources has undermined the efforts of local people to protect the allocated forest. The economic incentive of illegal logging can even motivate forest-recipient households to illegally harvest their own timber for immediate benefits.

Gaps between Statutory Laws and Customary Practices

An important factor undermining the efforts to devolve meaningful rights to forests for local people is the lack of attention to local practices. Experiences from the study villages indicate that local forest institutions still play a role in governing forest management activities by local people. Diet and T'Ly villages are two good examples of what does or does not work if local practices were or were not taken into account during the FLA process (see the discussion earlier). Another example is land clearing in Cham B village. Formerly, Ede people of Cham B used to share the allocated forest area with people of Cham A, the currently neighboring village. Traditionally, this forest area has been known to belong to Ede people in both villages. Nevertheless, the fact that FLA only allocated forest to Cham B has legally excluded Ede people of Cham A the rights to this forest. As a consequence, the latter resisted and returned to their former field in the forest to claim it for their own, resulting in a rush for land in the allocated forest area (Nguyen 2005).

Absence/Presence of Tangible Benefits and Clear Benefit Sharing Arrangements

Unclear benefits and benefit sharing arrangements can influence the incentives of forest recipients to take care of the allocated forest. In study villages in Hoa Binh, the program has been unclear since the beginning about the benefits that the villagers could have from the forest. There was no explanation from the state officials about that rights people had with the forest RBC. Furthermore, it was not clear to the farmers whether they 'owned' the allocated forest or was only 'contracted' to protect it. By contrast, positive changes in forest management in T'Ly village can largely be attributed to clear benefits and benefit sharing arrangements for local people. After three years of protection, the income from commercial logging, which was around 20% of the village's annual income, can potentially be an incentive for local people.

Another issue is the distribution of benefits within a village or community. In case of Hoa Binh, distribution of forest resources was inequitable among villagers. FLA has created two differentiated groups of households in the village: one with forest and the other without forest. Even within the former group, there was also an inequitable distribution of forest resources; some households received large areas of forest while the other received very little. Such inequity in benefit distribution can serve as an incentive for illegal forest activities by both forest recipients and non-recipients.

Local Participation

Evidences from the study villages show that absence of active participation by local people during the FLA process has negative impacts on the forest-use and management afterward. The main reason is with the knowledge of local people (both forest recipients and non-recipients) about the rights, benefits, and duties of themselves, as well as those of the others. In a FLA process with poor participation of local people, there was little or no opportunity to discuss state policies and local forest institutions (rules). As a consequence, the state officials involved in FLA were not able to learn from the existing practices in forest management by local people, and local people were not well informed of state policies related to FLA. This made it difficult for both sides to achieve the objectives of FLA.

6.2.4 Forestland Allocation and Poverty Alleviation

Although the discussion so far has indicated some contribution of allocated forest to local livelihoods, the linkage between forest tenure reforms and poverty alleviation in the study villages is unclear. The main reason is that income generation from forests is not necessarily poverty alleviation and does not guarantee that the poor will be able to receive any generated income at all. For income generation to contribute to poverty alleviation, a mechanism that pro-actively supports poor households in the village needs to be in place (see Nurse et al. 2003).

Of the study villages, contribution of FLA to poverty alleviation is observed only in the case of T'Ly village, Dak Lak. Out of the benefits from commercial logging (see the discussion in above), 20 million VND were used as a loan for five poor households in the village (four million VND per household). The loan, which was of significant help for the poor households, was used for household economic development activities, such as livestock raising.

In most other cases, the benefits that poor households got from allocated forests were often minor. Derivation of forest products with high value often required significant investment of capital or labor resources or both (see Nguyen 2005, 2006b). However, poor households lacked both of them. As a consequence, the benefits poor households got from the forest were often of lower value than those derived by better-off households.

For the study villages in Hoa Binh, potentials for reverse effects on poverty alleviation have even been observed. First of all, in order to address the poorest of the poor FLA was expected to provide them meaningful rights to the forest resources. Nevertheless, survey results indicate that power relations operated during the course of FLA process in study villages in Hoa Binh and the richer part of the villages got access to the allocated forests while the poorer part was left out. In Khanh village, for example, where only 16 out of 70 households had legal rights to the forest resources, FLA information was not properly disseminated to all households in the village. Only communal and village officials and their relatives,

mostly the richer households in the village, were informed of the program and able to apply for the land on time. Other households in the village did not know about the program until it was too late to apply.

Secondly, power relations influenced the distribution of allocated forest resources, even among households who received forest. In Song village, the size of allocated forest was unevenly distributed among recipient households. On average, each household received 5.8 ha of natural forest and 1.6 ha of plantation. However, there was a significant variation in forest size among households, ranging from as small as one ha to as large as 16 ha for natural forest and 0.3 ha to 3 ha for plantation. Households with kinship to local officials were able to receive forest of higher quality and closer proximity to the village.

6.3. Customary Practices in Local Forest Management

The discussion that follows focuses on four main points: 1) existence of customary practices in management of communal forests before FLA took place, 2) the role of traditional village headman in FLA process and in daily uses of forest resources, 3) respect of customary practices during FLA process and in use and management of the allocated forest, and 4) representation of tradition forest management knowledge in existing forest governance at the village level. We assume that the presence of these factors in a village give a good indication of the integration of customary forest-management practices in the current situation.

6.3.1 Existence of Customary Practices in Forest Management before FLA

In general, customary practices in the management of forest resources, which were traditionally regarded as communal property, existed in all the study villages. In Cham B village, the currently allocated forest area used to be the communal forest of the indigenous Ede people, providing them with shelter and livelihoods. The area of forest has traditionally been known to belong to the Ede people of Cham B (and of the neighboring Cham A village, who used to live with Cham B people in the same village before 1990s (see Tran and Sikor 2006). All indigenous people living in the area respected this tradition. They had to ask for permission from Cham B people (usually the traditional village headman) before felling any timber or clearing any land in the forest. Similarly, before forest devolution took place, the allocated forest area was regarded as property of Tul villagers according to traditional practices. All Mnung people in surrounding villages recognized this tradition. Within Tul, there was an understanding of where in the forest logging and land clearing were possible and where these activities were not allowed.

In T'Ly, the allocated forest used to be the sacred forest of the villagers. There was an area in this forest that local people only collected timber for traditional events of the whole village. Logging for other purpose was not allowed. Similarly, customary practices in forest management also existed in Diet village before FLA. The allocated forest was also the area where people farmed and collected products for their needs.

A similar picture is found in study villages in Hoa Binh. Before FLA took place, people in Song, Khanh and Noong Luong villages had an area of forest traditionally belonging to them. Except for NTFP collection, use of such forest area was only possible by people from the village. Permission by the village was required for outsiders for timber logging. In Cha Day village, there was an area of forest that was

used for protection of water resources. Cha Day villagers collectively took care of the forest area for their needs.

6.3.2 Role of Traditional Village Headman

Despite the fact that traditional village headmen are still recognized as important figures in most of the study villages, they did not play a decisive role in FLA process. In the study villages in Dak Lak province, traditional village headmen were involved in the whole process. They were asked to help show the borders of the forest in the field. During village meetings, traditional village headmen were asked for opinions. However, final FLA decisions were not made by them. Instead, state-elected village heads played a more important role in the decision-making process (see Nguyen 2006a; Tran 2005)

Contrasting pictures are found in the study villages in Hoa Binh. In Song and Khanh villages, traditional village headmen had no different role than any other men in the village. In both villages, state-elected village heads had a more decisive role than traditional headmen. By contrast, traditional village headmen in Cha Day and Noong Luong play a very important role in general. During the FLA process, they were asked to give their opinions about forest use by the local people and had a decisive role during village and group meetings.

Nevertheless, traditional village headmen do not have a strong role in forest use and management. Only two interviewed households (1.1% of the sample) mentioned that they asked their respective traditional village headmen for opinions and permission before they collected timber. No permission or opinion of traditional village headman is sought for collection of non-timber forest products (NTFPs) or for clearing of the forest for cultivation. Instead, interviewed households, including the traditional village headmen, emphasized the role of state elected village head in getting permission or opinion in forest uses.

6.3.3 Respect of Customary Practices in Forest Management

Despite a long period of state claim over forest resources and a long belief that traditional knowledge was “backward” (Bui 1989; Ngo 1989), local knowledge in forest use and management remains in existence in all study villages. In Dak Lak province, indigenous people in the study villages still maintain various local institutions governing the use and management of local forest resources. During FLA process, traditional boundaries of forest between study villages and their neighbors were taken into account. In daily life, various customary practices are still applied by local people, even on the allocated forest. As discussed earlier, customary practices have been respected in Cham B village of Dak Lak. In Hoa Binh, some customary practices in forest use are still being applied in forest allocated to individual households. In Thai villages in Mai Chau, for examples, people who collect medicinal herbs from the forest must leave the roots in the ground for future regeneration. Trees and bee hives marked by people are considered owned by them.

Nevertheless, such customary practices are being eroded. Economic growth coupled by population pressure gives rise on the demand on forest resources. In Dak Lak, accumulation of timber and forestland for cultivation happen as people fear that forest resources are getting scarcer and will be difficult to obtain in the future. In Hoa Binh, collection of NTFPs for commercial purpose has ignored the customary practice of sustainable harvesting.

Immigration has also made important contribution to the erosion of local customs. In Cham B village, the customary practices described above do not apply for the Kinh migrants because they are not part of the indigenous Ede group. As a consequence, violations of such practices by migrants happened but cannot be solved by customary law. Within the study villages, there is also erosion of customary practices. In recent years, local ethnic people, who would ask for advice and permission from the traditional village headman concerning timber logging or land clearing in the past, have now turned to state elected village head or CPC. Many people have also chosen to ignore the rules (both statutory and customary) and just take the resources they need.

6.3.4 Existing Forest Governance at the Village Level

The existing forest governance in study villages in Dak Lak shows more integration of customary practices than in the villages in Hoa Binh. As discussed earlier, prior experiences in communal forest management exist in all study villages. The current form of forest management in study villages in Dak Lak is somewhat related to the traditional forest management practices they had previously. In Diet and T'Ly villages, particularly the former, the allocated forest is collectively managed by a system of village-based forest protection and management, which operates on the basis of both statutory law and customary knowledge

A relatively different situation is found in Hoa Binh. In four study villages, no forest protection team has been organized. Local people take care of their own forest on an individual basis. In each village, there is a village forest protection regulation, which serves as the framework for forestry activities. However, the regulations only reflect the duties of villagers to protect forest in accordance with statutory legal framework and lack proper attention to the benefits of local people

7 Summary and Policy Implications

This study set out to seek further understanding of forest tenure arrangements and forest tenure reform in Vietnam. Using the empirical evidence from Dak Lak and Hoa Binh provinces, this paper aimed to provide answers to the questions of: 1) what is the current situation of forest tenure in the study provinces? and 2) how are forest tenure arrangements in the study sites implemented and what are the influencing factors? Findings from the study indicate that significant progress has been observed in shifting from only state forest management regime to multi-holder forestry. Currently, there are eight major forest tenure groups from both state and non-state sectors in the two study provinces. However, the state still dominates the management of forest resources. In both provinces, the best quality forests are still owned by state actors. Non-state actors, particularly local people, are managing poorer forests. Most importantly, the state has a strong role in deciding the use of forest resources already allocated to local people.

Secondly, forest tenure reform by itself has not been able to shape the actual uses of allocated forest. Other factors, such as support from donor projects, market pressure, clear benefit-sharing arrangements, gaps between statutory regulations and customary practices, and participation of local people, have influenced the realization of rights endowed by FLA. More importantly, FLA works well in the areas where there is external support to local forest recipients after the completion of FLA.

Thirdly, little has been observed in the study villages with regard to effects of FLA on poverty alleviation. There is even a danger to widen the poverty gap. In the case of Hoa Binh, the practice of power relation has resulted in FLA providing proactive access to forests to the wealthier part of the village. Furthermore, material benefits derived by poor households are often minor in economic value as they lack necessary resources to derive high economic value products.

Fourthly, actual forest tenure arrangements in the study villages are also influenced by customary practices. Traditional rules are still shaping how forest resources are used and managed. Nevertheless, the presence of customary practices varies across sites, and the role of traditional rules has been degraded with pressure from economic growth, an increase of immigrants, and the dominant role of state-elected village leadership.

Empirical findings from the study have important policy implications. First of all, FLA needs to become more meaningful devolution of rights to local people in order to give local people the actual control over the forest resources. This means that not only rights to the forest are devolved, but also necessary power to make decision on forest-resource management and to monitor the forest-policy implementation is transferred to local people, taking into account the existing traditional practices. Secondly, for forest tenure reform to be able to address the issue of poverty alleviation, FLA needs to be more pro-poor. This necessarily implies various measures need to be taken into account, which includes but is not limited to allocation of quality forests, establishment of a (forest) benefit distribution mechanism that positively discriminates the poor, transparency in planning and decision making processes, and capacity building and extension supports that positively discriminate the poor. Thirdly, an evaluation of the forest tenure reform should be done to remedy the mistakes that may have been made so that affected people can benefit from the reform. Fourthly, local traditions should be respected in order to avoid gaps between state laws and customary practices and to make local people more involved in forest management.

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