



# Forest Tenure Reform in Viet Nam:

## Case Studies From the Northern Upland and Central Highlands Regions

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## Preface



This study is part of a project implemented by the Regional Community Forestry Training Center for the Asia and Pacific (RECOFTC) in collaboration with the Rights and Resources Group (RRG) to advance policy and market reforms in four countries: Cambodia, Lao PDR, Thailand, and Viet Nam. The overall goal of the project is to reduce poverty in forest areas, expand sustainable forest use and trade, and increase the effectiveness and impact of regional analysts and institutions in advancing pro-poor forest policy and market reforms. Project activities include strategic analytical work that contributes to the development and support of a regional network of policy and market analysts and supports the engagement of policy and market leaders to raise awareness and advance tenure and policy reforms.

In Viet Nam, the current program of work focuses on analyzing the current situation regarding forest tenure and markets for forest products, in order to identify policy barriers, constraints, and issues for further work. The Vietnam Forestry University (VFU) had conducted an initial study that identified the gaps between the data needed for a good analysis and what is actually available at the national and sub-national levels. The objective of the current study is to analyze the implementation of new tenure arrangements on the ground, with the particular objective of recommending reforms that would help poor forest holders and communities in accessing, using, and trading their forests and forest products to improve their living standards. Dak Lak and Hoa Binh provinces have been selected for the study as representatives of the Central Highlands and Northern Upland regions, respectively.

This report presents a synthesis of findings from the two surveys undertaken in Dak Lak (by Dak Lak Department of Agriculture and Rural Development (DARD)) and Hoa Binh by VFU (See Annex A. for a list of members in the two research teams). It was prepared by Nguyen Quang Tan, Nguyen Ba Ngai, Tran Ngoc Thanh, William Sunderlin and Yurdi Yasmi, with contributions from Mai Thi Thanh Nhan, Nguyen Dang Khoa, and Tran Ngoc Dan Thuy.

# Executive Summary

This paper is part of a study, coordinated by the Regional Community Forestry Training Center for Asia and the Pacific (RECOFTC) in collaboration with the Rights and Resources Group (RRG), with the aim of acquiring a better understanding about the situation of forest tenure and the implementation of Viet Nam's forest tenure policies. The paper seeks to shed light on three issues:

1. the current situation of forest tenure in the two study provinces (e.g. who owns what forest and how much);
2. the implementation of forest tenure arrangements in the study sites; and
3. variations in the implementation of forest tenure policy in different provinces.

The data used for analysis were collected from eight villages in the provinces of Hoa Binh and Dak Lak. Hoa Binh is located in Viet Nam's Northern Upland region, while Dak Lak is in the Central Highlands region of the country. These two provinces are diverse in socio-economic and forest tenure policy conditions and were thus selected to represent these conditions in the country as a whole. Where possible, a comparison of these two provinces is made to provide insight into forest tenure reform processes and outcomes.

## Forest Tenure Situation

To date, there are eight forest tenure groups in both Hoa Binh and Dak Lak provinces: 1) individual households; 2) communities (including household groups); 3) communal people's committees (CPCs); 4) management boards for protection forest (MB-PFs); 5) management boards for special-use forest (MB-SUFs); 6) state-owned companies (SOCs); 7) joint-venture companies (JVCs); and 8) the armed forces. The best quality forests in both provinces are still owned by various state actors. Non-state actors, particularly local people, mostly manage poorer quality and degraded forests. Even more significant is that the state has a strong role in deciding how forest resources allocated to local people are used. For example, timber logging and use of forest land for cultivation still require legal permission from competent state authorities.

A major difference between the two provinces is the proportion of forest land falling under different tenure arrangements. Individual households manage 79% of the forest land in Hoa Binh, while in Dak Lak state actors hold over 96% of forest area in the province and local people hold less than 3%. Differences in forest tenure can also be seen in the study villages: in Hoa Binh forest management by individual households is very common, while in Dak Lak local people mostly manage forests in a collective manner.

## Implementation of Forest Tenure Arrangements

Experiences in forest land allocation (FLA) processes have differed in the two study provinces. FLA in Hoa Binh has largely been ad hoc and lacked a clear implementation approach, confusing many local communities. The FLA program in Dak Lak has been able to take into account some variations at the local level and has initially provided people with actual rights to the forest.

Many people from the study villages in both provinces have been unable to realize the full extent of rights endowed by FLA. For instance, many people are still unaware of their full rights under FLA. FLA has not been the sole factor in shaping resource-use in allocated forests. Other factors, such as support from donor projects, market pressure, clear benefit-sharing arrangements, gaps between statutory regulations and customary practices, and the participation of local people, have influenced the realization of FLA-endowed rights.



Forest resources are inequitably distributed among local populations. FLA has generally created two separate groups of actors at the village level: those with legal rights to the forest and those without those rights. The inequitable distribution of forest resources is also found among the former group. Power relations and access to information have shaped the distribution of forest resources among local forest recipients, particularly in the case of Hoa Binh. Poor and disadvantaged households, who have inadequate access to power and information, are often left out. This has contributed to the fact that FLA has unclear effects on poverty alleviation in the study villages. In the case of Hoa Binh, potential for reverse effects from FLA have even been observed.

Forest resources and resource-use patterns by local people in both provinces have undergone changes since FLA implementation. The level of change varies across study sites and also in regards to different resources. Timber may have become scarcer in one village forest area but more abundant in others. Similarly, the availability of one forest product may have declined since FLA but the availability of others may have increased. Various factors have contributed to such changes, including increased market demands (due to economic growth), migration, the practice of traditional customs, and illegal logging and the insufficient punishment of violators. Most importantly, FLA appears to have a positive effect on forest resources and resource use, primarily in sites where donor support has continued after FLA implementation.

Actual forest tenure arrangements in the study villages are also influenced by the presence of customary practices. Traditional rules still shape how forest resources are used and managed. Nevertheless, the presence of customary practices varies across sites and the role of traditional rules has declined with pressure from economic growth, the increase of migrants to the area, and the dominant role of state-elected village leadership.

In general, this study's findings indicate that local communities possess important abilities to manage forests. Traditional forest management systems still endure after more than two decades of state forest management. With timely support from outside, local communities can protect allocated forests from unauthorized use and benefit from forest management.

### **Variations in the Implementation of Forest Tenure Policies**

The paper focuses on two major policies related to forest tenure reform: FLA policies and benefit-sharing policies. In terms of FLA policies, diversions from the national legal framework were observed in FLA programs in both provinces. While such diversions have the potential to contribute to the improvement of FLA policies at the national level, the FLA program in Hoa Binh resulted in confusing local people, making it harder for them to understand their rights and responsibilities. By contrast, a clearer approach, based on the national legal framework and complemented by new components, has made Dak Lak's FLA program an interesting learning experience.

Variations exist in the implementation of benefit-sharing policies in two provinces. The diversions from the government's Decision 178 (issued in 2001), the national policy on benefit sharing regarding forest resources, can be explained by the fact that FLA began in both provinces before the issuance of this policy. However, benefit-sharing arrangements introduced in Dak Lak were based on well grounded scientific work and have contributed to the preparation of the national benefit-sharing policy. By contrast, little has been done in Hoa Binh province with regards to the sharing of benefits from allocated forest, even after the issuance of Decision 178.

### **Recommendations**

- Make forest land allocation and the devolution of forest rights more meaningful: Forest rights along with necessary powers for decision making and monitoring forest policy implementation need to be devolved to local people. Traditional practices also need to be accounted for during forest policy implementation processes. Necessary and timely support should also be provided to build up the capacity of local people in handling newly endowed rights and powers in decision making and in monitoring.
- Make forest allocation more pro-poor: To make FLA more beneficial for poor forest-dependent people, the

following conditions need to be present: allocation of better quality forests to local people; more equitable distribution of forest resources among local people, including a clear benefit-sharing mechanism which positively discriminates for the poor; transparency in all planning and decision-making processes; and capacity building and extension supports which target the poor.

- Evaluate (and remedy) tenure reform nationwide: Evaluation of forest tenure reform in all provinces with FLA should be undertaken to draw out lessons to be learned or practices to be avoided. Most importantly, where forest policies have been poorly implemented, measures should be taken to remedy the mistakes made so that affected people can benefit from the reforms. Policy makers should be involved in the design of the evaluation and analysis of the findings as they are in positions to make decisions and remedy mistakes.
- Involve local people in combating illegal logging activities: A meaningful devolution of forest rights to local people can make a significant contribution to efforts in curbing illegal logging. If local people see that illegal logging has direct influence on their derivation of benefits from local forests, they would be incentivized to engage in stopping such practices. In addition, state laws and village regulations need to be strictly enforced to avoid unauthorized logging by local people themselves.
- Respect local customs: This can be done in two ways. First, state policies should be flexible enough to account for local variations of customs and culture, particularly those of ethnic people who often live in and around the forest areas. Second, local state officials should learn to respect local customs. They should understand that scientific forestry is not the only way to manage forests and that local people also possess important knowledge about their environment and forest management.
- Provide legal education to local people: This is a long-term process, which starts with the identification of the major problems confronting local people in natural resource management. Concrete legal provisions for each problem need to be compiled. Those legal provisions would then need be worded in simple, everyday language without losing the meaning of the law. The next step is to identify specific means of communication, which may include but are not limited to aural media (radio), visual media (poster, pictures), and verbal media (simplified leaflets). Appropriate communication tools would then be prepared and used for legal education.
- Pay (more) attention to the design of policy implementation: Prior to putting policy into practice, attention should be paid towards designing a straightforward implementation program. This includes but is not limited to devising a consistent approach that clearly defines the roles and responsibilities of actors involved and that includes a well defined system for monitoring policy implementation. The design should also allow room for the integration of local variation and feedback during the course of implementation.

# 1 | Introduction

## 1.1 Forest Tenure Changes in Viet Nam Since 1975

After the end of the American War<sup>1</sup> in 1975, the state took charge of managing forest resources throughout Viet Nam (Box 1). At the national level, the Ministry of Forestry was set up in 1976 and assigned state forestry issues.<sup>2</sup> At the provincial level, the Department of Forestry was established to handle forestry issues in each province. State forest enterprises (SFEs) were created as state organizations in charge of forest exploitation and plantation at the field level. By 1989, the SFE system consisted of 413 SFEs, managing 6.3 million ha or almost 70% of total forest land (Ministry of Agriculture and Rural Development (MARD) 2001; Nguyen et al. 2001).

When forested area decreased rapidly during the years of SFE management,<sup>3</sup> it became clear that the current SFE system was unable to adequately manage national forest resources. The success of the *Doi Moi*<sup>4</sup> and agricultural land tenure reforms of the 1980s, which helped position Viet Nam as one of the world's top rice exporters, provided further impetus for forest tenure reform. Beginning in the early 1990s, Viet Nam's forestry sector sought to involve both state and non-state stakeholders in forest management. The Forest Protection and Development Law, passed in August 1991, provided a legal framework for allocating forest resources to a diversity of stakeholders (including organizations and individuals) for management, protection, and commercialization. It also provided a legal basis for establishing management boards for protection forest (MB-PFs) and special use forest (MB-SUFs). In July 1993, a Land Law was passed, allowing land users to have long-term, renewable land-use titles, also known as Red Book Certificates (RBCs) for its color page. In addition, the law officially gave the titleholder five rights: rights to exchange, transfer, inherit, mortgage, and lease. These two laws laid down the basic framework for the emergence of novel forest management arrangements.

Following the legal framework initially established by the 1991 Forest Protection and Development Law and the 1993 Land Law, the state has made efforts to introduce private forest management arrangements. While the state still maintains the right to reclaim forests for public purposes in cases of need, it has striven to assign the tenure rights necessary to involve different stakeholders in forest development. Accordingly, the Government has issued various policies guiding the implementation of the forest allocation process. On 15 January 1994, Decree 02/CP was issued, providing a framework for transferring forest management from the state to local organizations, households, and individuals. The following year, on 4 January 1995, Decree 01/CP was promulgated, guiding land allocation through contracts for agriculture, forestry, and aquaculture purposes. Under those decrees, individuals, households, and household groups became eligible for long-term contracts with state organizations. On 16 November 1999, Decree No. 163/1999/ND-CP was issued, guiding the allocation and leasing of forest land to organizations, households, and individuals for forestry purposes.

By the early 2000s, forest management under household groups and whole communities had emerged as an official forest management arrangement. However, community-based forms of forest management are not a new undertaking, but have been traditionally practiced by many communities living in and near forests (Le 2001; Nguyen et al. 2004; Pham 2004; Tran 2005). Shifts in forest policies during the 1990s created a general framework for involving local people and communities in forest management. Experiments in community-based forms of forest management during this period contributed to the legal recognition of community land tenure (under the new Land Law passed in November 2003) and community forest tenure (under the new Forest Protection and Development Law passed in December 2004). However, it is important to note that the 2004 Forest Protection and Development Law only

<sup>1</sup> Also known as the Viet Nam War or the Second Indochina War in Western literature.

<sup>2</sup> In December 1995, Ministry of Forestry and two other ministries merged into the Ministry of Agriculture and Rural Development (MARD), which has been in charge of forestry issues at national level since then.

<sup>3</sup> It is estimated that Viet Nam lost of 190,000 ha of forest per year between 1976 and 1990.

<sup>4</sup> Economic reforms initiated by the Vietnamese Government in 1986.

recognizes community 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. Article 5 of the Law, which addresses legal ownership of forests, does not count communities in its list of possible legal forest owners.

### Box 1: Major Milestones in Policy and Legal Framework

Jul. 1976:	Ministry of Forestry established as a state organization responsible for forestry issues at the national level; benchmark for nationalization of forest resources
Jan. 1981:	Directive 100CT/TW issued by Central Communist Party, initiating reform in agricultural sector
Dec. 1986:	<i>Doi Moi</i> (economic reform) policy launched after the determination of 6 <sup>th</sup> National Congress of the Vietnamese Communist Party
Apr. 1988:	Resolution 10/NQ/TW issued by the Central Communist Party, consolidating reform in the agricultural sector
Aug. 1991:	Forest Protection and Development Law passed by the 8 <sup>th</sup> 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 9 <sup>th</sup> National Assembly, stipulating the rights of title holders to lease, exchange, inherit, mortgage, and transfer land-use titles
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 11 <sup>th</sup> National Assembly, recognizing the legal status of communities in land tenure
Dec. 2004:	Forest Protection and Development Law passed by 11 <sup>th</sup> National Assembly, recognizing common property as a legal forest management arrangement

## 1.2 Forest Tenure Reform in Viet Nam: Ingredients of Success and Failure

National reforms in forest policies during the 1990s changed the focus of forestry at the local level from exploitation to protection and afforestation, and prompted a shift from state forestry to more people-centered forestry (Nguyen 2005:87–90). However, the process of devolving forest management to local people has been very slow and had mixed results (MARD 1998, 1999; Sunderlin and Huynh 2005). Despite a large number of guidelines and instructions on forest land allocation (FLA), their vagueness in directing the implementation procedures at the field level caused general confusion among responsible officials (MARD 1999:198). This confusion has contributed significantly to slowing down the implementation of the FLA at the field level (Box 2 provides a list of various factors influencing the success and failure of FLA in Viet Nam). In some cases, policies on the allocation of forest to individuals and households were not even implemented at all (Le 2006).

The approaches to FLA implementation during this period strongly influenced the outcomes of the program. A lack of coordination during the allocation process between the General Department of Land Administration (responsible for issuing land-use certificates), the Department of Forestry, and Forest Protection Department (in charge of forest land allocation and forest protection contracts) contributed significantly to the failure of the FLA program (Neef and Schwarzmaier 2001:xi). In other instances, local officials dominated the FLA process and influenced the outcomes of the FLA program (Nguyen 2006a; Sikor and Nguyen 2007; Sunderlin and Huynh 2005).

The gap between state policies and actual practices by local people was another important factor in the poor implementation of forest land allocation in the 1990s. In Son La province, a study by Sikor (2001:7) found that the implementation of the FLA policy did not achieve the expected success because “land allocation did not imply a shift of control towards villagers, but had the potential to weaken villagers’ control [over the land],” and as such, was resisted by local people. Similarly, prior study on FLA in Dak Lak province also showed that there were significant discrepancies between the legal acts and actual practices on the ground (Tran 2005; Tran and Sikor 2006).

### Box 2: Major Factors Influencing the Outcomes of Forest Land Allocation

#### **Positive factors:**

- liberalization of and increase in agricultural outputs (Sikor 2001)
- availability of new technologies (Sikor 2001)
- support from donor-led initiatives (Neef and Schwarzmaier 2001; Nguyen 2005; Phu Loc Forest Protection Unit 2000; Roth 2005; Vo 2000)
- market opportunities for fruit trees, cash crops, and plantations (Roth 2005; Sikor 2001)
- response to the needs of local people (Nguyen et al. 2004; Nguyen 2005)

#### **Negative factors:**

- unclear policies and guidance (Dinh and Research Group of VFU 2005; MARD 1998, 1999)
- incompatibility with local practices (Nguyen 2006b; Sikor 2001; Sunderlin and Huynh 2005; Tran and Sikor 2006)
- lack of coordination among concerned agencies (Neef and Schwarzmaier 2001)
- lack of economic incentives (Nguyen 2006b; Sunderlin and Huynh 2005)
- influence of power relations (Nguyen 2006a; Sikor and Nguyen 2007; Sunderlin and Huynh 2005)
- poor or inaccessible forests (MARD 1998, 1999; Sunderlin and Huynh 2005)
- lack of follow-up support (MARD 1998, 1999; Sunderlin and Huynh 2005)

In instances where the FLA program has had success, support from donor-led initiatives played crucial roles (Neef and Schwarzmaier 2001). In the Son La case mentioned above, support was given by the German-funded Social Forestry Development Project (*ibid.*), while in Thua Thien Hue province, support came from the PROFOR project, funded by the United Nations Development Programme (UNDP) (Phu Loc Forest Protection Unit 2000; Vo 2000). In Dak Lak province, the Sustainable Management of Resources in Lower Mekong Basin Project (SMRP), funded by the German Agency for Technical Cooperation (GTZ), provided support to the FLA program (Nguyen 2005). Other factors contributing to FLA success include the liberalization of agricultural outputs (Sikor 2001), the availability of new technology for the local farmers (*ibid.*), market opportunities for trees and crops (Roth 2005; Sikor 2001), and the ability to respond to the needs of local people (Nguyen et al. 2004; Nguyen 2005).

### 1.3 Forests, Forest Land Allocation, and Poverty

From 1993 to 2004, Viet Nam made major progress in reducing the percentage of its population living under the poverty line, from 58.2% in 1993 to 19.5% in 2004 (Table 1 and Box 3). The reduction of more than half of the population living in poverty over an 11-year period has generally been attributed to the country’s strong economic growth during that time.

### Box 3: Poverty Line in Viet Nam

In this report, we employ the poverty line set by the General Statistics Office (GSO), which relies on both income and expenditures. It defines a threshold based on the cost of a consumption basket that includes food and non-food items, with food spending being large enough to secure 2100 calories per day per person. Households are considered poor when their income or expenditure level is not high enough to afford this consumption basket.

For the period 2000–2004, the poverty line was VND146,000 (per person per month) for urban areas and VND112,000 for rural areas. For the period 2004–2006, it was VND163,000 for urban areas and VND124,000 for rural areas. For the period 2006–2010, the poverty line has been set at VND260,000 for urban areas and VND200,000 for rural areas. (See Annex B for exchanges rates of VND against US\$ during the respective years.)

Despite this, the impacts of forestry on the poor, and the extent to which forestry has contributed to lifting people out of poverty, remains unclear (Dinh and Research Group of VFU 2005; Nguyen 2006c). In fact, despite significant achievements in poverty reduction, the poverty rate continues to run high in the upland areas (Mueller et al. 2006; Sunderlin and Huynh 2005). However,

...more forest cover is more likely to be found in the areas with high shares of people from ethnic minority groups, whose livelihoods strategies traditionally depend on forest resources and on swidden cultivation. Moreover, ethnic minorities tend to live in less accessible areas, with more topographic variation and further away from the market. (Mueller et al. 2006:11)

Poverty reduction since the 1990s has been much slower among Viet Nam's ethnic minority population when compared with the mainstream Vietnamese (Kinh) group, resulting in a widening poverty gap between the two (World Bank 2003). As indicated in Table 1, while the poverty rate has decreased rapidly among the Kinh and Chinese populations, from 53.9% in 1993 to 23.1% in 2002, poverty among the ethnic minorities remains high, at 69.3% in 2002 compared to 86.4% in 1993.

**Table 1: Changes in the Poverty Rates in Viet Nam Since 1993**

	1993	1998	2002	2004
Overall poverty rate (%)	58.1	37.4	28.9	19.5
Ethnic minority population classified as poor (%)	86.4	75.2	69.3	n/a
Kinh and Chinese population classified as poor (%)	53.9	31.1	23.1	n/a

Source: General Statistics Office (GSO) (2006); World Bank (2003)

Challenges facing poverty reduction in Viet Nam increasingly concern the forestry sector. The approach taken to poverty reduction thus far has worked well with the lowlander and mainstream Vietnamese. Yet, this approach may not be suitable to address poverty among ethnic minorities in upland forest environments due to differences in cultural, socio-economic, and physical contexts. For forest-dependent ethnic minorities, forest resources are not only part of their livelihoods but also contribute significantly to other aspects of their everyday lives. A major challenge for the forestry sector, as outlined by the Vice Minister of the Ministry of Agriculture and Rural Development (MARD), Hua Duc Nhi (2006:1), is “to identify ways in which forests and forest resources can be used to bring benefit to these [ethnic minority] people and to contribute to the national efforts on reducing poverty.”

To improve minority livelihoods and well-being, provision of forest access to local populations needs to be better linked with poverty reduction efforts in the upland forest environment. However, the FLA program has had rather

limited, and in some cases even adverse, effects on poverty alleviation among forest communities. Nguyen (2006a) has demonstrated how FLA in Dak Lak focused a great deal on forest management but too little on poverty alleviation. According to Sikor and Nguyen (2007:2022), the poor do not benefit from FLA because it “happens in settings characterized by unequal distributions of economic, political and cultural resources.” Bao Huy (2006) describes three major hurdles that prevent the poor from benefiting from FLA: namely, long production cycles of forests, silvicultural techniques unknown to many poor households, and the requirement of legal permits for the trading of forest products. Using case studies and field surveys in various parts of the country, Dinh and Research Group of VFU (2005) conclude that:

...land allocation in Viet Nam has been based on the ability to invest in the land, with labor and capital. As poor people, including the ethnic minorities who are the majority of forest-dependent people, have shortage of both labor and funds, the policy has had the effect of excluding them from a larger share of the land allocation. (p. 7).

Significant changes in Vietnamese forest tenure have occurred since 1975. Forestry policies have been readjusted to involve a greater diversity of stakeholders, particularly local populations, in forestry activities. However, the implementation of such policies has had mixed results. In most cases, the effects of these policies on the poor have been rather limited, or even negative.

In light of these conditions, this study aims to acquire a better understanding about the situation of forest tenure and the implementation of Viet Nam’s forest tenure policies. Such knowledge, combined with a better understanding of people’s dependence on forest resources, is necessary to improve Viet Nam’s forest tenure policies. On the basis of this goal, we formulated the following three key questions to guide us through the course of the study. The information generated by these three questions is used to produce recommendations for policy reform:

1. What is the current situation of forest tenure in the study provinces (e.g. who owns what forest and how much)?
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?
3. What are the variations in the implementation of forest tenure policy at different sites?

We recognize the importance of gender issues in forest tenure reform, but have been unable to include such issues in this study due to limited resources. Interested readers are invited to read a study on gender issues in Viet Nam’s forestry sector by Hoang (2006) and another study on gender and forestry in the Central Highlands region by Mlo (2006).

The data used for analysis were gathered from eight villages in Hoa Binh and Dak Lak provinces, representing the Northern Upland and Central Highland regions of Viet Nam. The two provinces are diverse in socio-economic and forest tenure policy conditions, and were thus selected to represent such conditions in the country as a whole. Where possible, a comparison of these two provinces has been made to provide insight into reform processes and outcomes.

This report is organized around the three aforementioned research questions. Following this introduction, Section 2 presents an overview of the methodology applied in the study. Section 3 then provides background information on Dak Lak and Hoa Binh provinces. Section 4 addresses research question one and discusses the current situation of forest tenure in the two study provinces. Findings related to research question two are elaborated on in Section 5. Section 6 covers research question three, continuing with an analysis of variations in the implementation of forest tenure policies in different locations. Finally, Section 7 summarizes key issues discussed in the report and gives recommendations on policy reforms.



# 2 | Study Methodology

This section presents an overview of the methodology used for the study including discussion on the selection of study sites, and on the approaches applied and research process undertaken.

### 2.1 Selection of the Study Sites

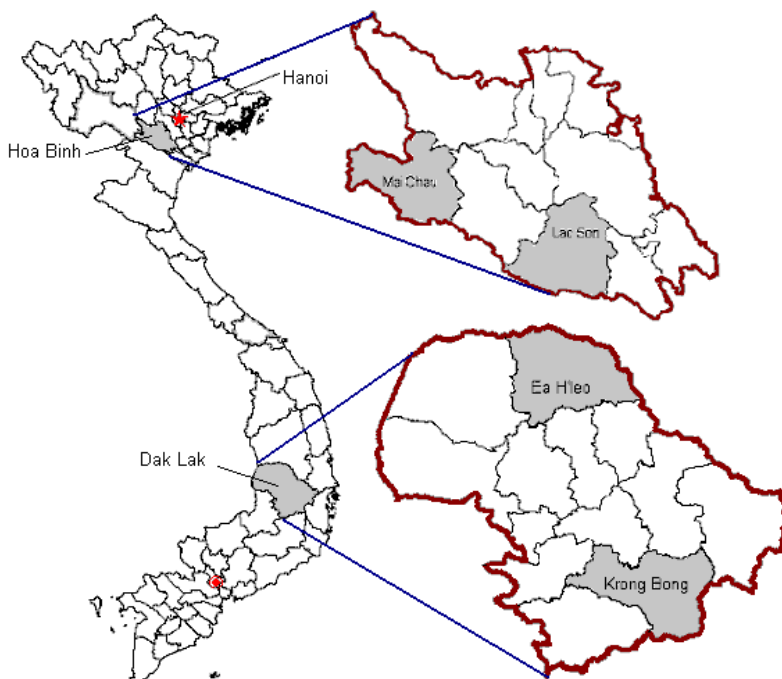


Figure 1: Location of the Study Sites

Hoa Binh province is located in Viet Nam's Northern Upland region where hilly and mountainous areas account for three quarters of the territory (Figure 1). Within Hoa Binh, four villages from two communes of two districts were selected for the fieldwork: Noong Luong and Cha Day villages of Noong Luong commune, Mai Chau district; and Song and Khanh villages of Tan My commune, Lac Son district. The two selected districts are situated in two of three sub-climatic regions of Hoa Binh: Mai Chau for the mountainous area and Lac Son for the semi-upland hilly area.

Dak Lak province was selected as the site for field work in the Central Highlands region. Within Dak Lak, four villages from three communes within two districts were selected for field survey: Diet and T'Ly villages of Ea Sol commune, Ea H'leo district (Figure 1); and Cham B village of Cu Dram commune and Tul village of Yang Mao commune, both in Krong Bong district. All four villages were selected because they were involved in the

province's FLA program. Yet, they provide differing pictures of the program and management of forest resources afterward. Diet and T'Ly represent villages in which the initial FLA process in 1998-1999 was unsatisfactory to residents, who demanded that forest be reallocated. In Cham B, the local forest was divided into plots to be governed by different household groups. Tul is an example of a community that has used local forests for generations and has only recently been given legal forest land-use titles by the state.

### 2.2 Empirical Approaches

In each study village, researchers undertaking the study collected primary qualitative data through two focus-group discussions and two key informant interviews, one each with a traditional village elder and a state-elected village head. In addition, researchers' impression sheets also provided extra qualitative information about the study villages. Quantitative data were collected from a household survey based on a pre-prepared questionnaire.<sup>5</sup> A stratified random sampling method was applied to select households for the survey in each village (Box 4). The stratification

was based on household well-being as previous studies indicate that this well-being is influential to household's legal access to and use of local forests (Nguyen 2005; Sikor and Nguyen 2007). Besides primary data, secondary data in terms of literature and statistics at local (commune and village) and provincial levels were also collected. Consultations with resource persons (e.g. decision makers) at provincial and national levels were also held to discuss issues related to the study.

#### Box 4: Selection of Households for Village Surveys

The selection of households for village surveys was based on a stratified random sampling method. All households in the village were first ranked into different well-being groups based on the perceptions of study villagers. Three well-being groups, namely rich, medium, and poor, were identified according to criteria (e.g. house type, education of the household head, income, labor force, assets, and land ownership) commonly recognized by people in each study village. Within each group, households were selected randomly for the survey.

In each study village in Hoa Binh, 25 households were covered by the survey. In Dak Lak, a survey was conducted on 20 households in each village. 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).

In each province, data collection was undertaken by a group of researchers. The Hoa Binh team, consisting of six members, was led by Dr. Nguyen Ba Ngai from Viet Nam Forestry University (VFU).<sup>6</sup> In Dak Lak, the team consisted of three people and was led by Dr. Tran Ngoc Thanh of Dak Lak Department of Agriculture and Rural Development (DARD). The two research teams were coordinated by Dr. Nguyen Quang Tan, an Associate of the Regional Community Training Center for Asia and the Pacific. The two teams undertook a similar research process (Box 5) from the beginning of April to end of May 2007, at the end of which data collected were analyzed and documented into provincial reports. In early June 2007, a two-day workshop was organized in Buon Ma Thuot, the capital city of Dak Lak province, with representatives from the Hoa Binh research team (Nguyen Ba Ngai and another team member) and all three members of Dak Lak team in attendance. The workshop was facilitated by Nguyen Quang Tan, who afterwards took charge of preparing this paper with contributions from Nguyen Ba Ngai and Tran Ngoc Thanh.

#### Box 5: Overall Process of the Study

Major steps taken during the study process included:

- Discussion of the study's terms of reference and preparation of data collection tools for both provinces (March 2007)
- Literature and data review (March through June 2007)
- Discussions with key informants at national and provincial levels (April through June 2007)
- Village surveys, using similar data collection tools across all selected villages (April through May 2007)
- Computer entry of household survey data (May 2007)
- Field data analysis and preparation of provincial reports (May through June 2007)
- Synthesis workshop discussing the two provincial studies and synthesis report (June 2007)
- Synthesis report preparation and revision (June 2007 through February 2008)

As villagers are doing participatory mapping (in Hoa Binh), a researcher is taking notes



### 2.3 Data Analysis and Interpretation

As discussed earlier, this paper aims to compare FLA processes and outcomes between the two study provinces where possible. In addressing research question two (regarding the implementation of forest tenure arrangements in the study villages), we also attempt to compare the situation before and after the implementation of forest tenure reform policies in the respective provinces.

The following approaches were employed for data analysis and interpretation:

- **Qualitative analysis:** qualitative descriptive analysis was the main analytical tool employed in the study. Various tools were used, including data reduction, text discussion, and description. The extensive use of such data in charts, figures, and pictures also provides additional qualitative analysis to the report.
- **Quantitative analysis:** quantitative analytical tools were also employed to complement qualitative analysis. Quantitative data and the simple statistical calculation of such data, such as percentages, are presented in tabular or figure formats in this report.
- **Expert judgment and consultation:** Expert judgment was also an important tool in the analysis and interpretation of collected data. This approach was employed throughout, from survey design through to data collection at the local level and also in the completion of the synthesis report. Consultation was also undertaken with local people and experts at different levels.

# 3

## Background to Hoa Binh and Dak Lak Provinces

# 3

## Background to Hoa Binh and Dak Lak Provinces

This section provides a short introduction to the two study provinces: Hoa Binh and Dak Lak. A summary of major social and economic indicators for both provinces is also presented in Table 2, along with national information for comparison. A brief overview of the study villages follows.

### 3.1 Overview of Hoa Binh Province



Figure 2: Map of Hoa Binh Province

Hoa Binh province is located in the northwestern region of Viet Nam, around 76 km to the southwest of Hanoi (Figure 2). It shares borders with Phu Tho and Ha Tay provinces to the north, Thanh Hoa province to the south, Son La province to the west, and Ha Nam and Ninh Binh provinces to the east. Hoa Binh is administratively divided into ten districts and one municipality, covering a total area of approximately 467,000 ha, of which some 173,000 ha (37%) is forest. Cropping area accounts for 65,000 ha, some 14% of the total territory.

As of December 2005, the population totaled approximately 813,000 people, 85% of whom reside in rural and mountain areas. There are over seven different ethnic groups living in the province, namely the Muong (approximately 60% of the total population), Kinh (31%), Thai (4%), Tay (2.6%), Dzao (1.6%), and Hmong (0.4%).

The economy of Hoa Binh has expanded dynamically, with an average annual growth rate of over 10% during the last several years (12.7% in 2006). Most provincial income comes from agriculture, but the industrial and service sectors are expanding rapidly, with growth rates of 20.4% and 26.9% in 2006, respectively. The average annual per capita Gross Domestic Product (GDP) is approximately VND5.2 million (VND433,000 per month). Not surprisingly, Hoa Binh’s economic growth over the last decade has been accompanied by a steep decline in the provincial poverty rate, from 58.6% in 1999 to 20.6% in 2004.

Table 2: Key Socio-Economic Indicators of Two Provinces and Viet Nam

Socio-Economic Indicators	Hoa Binh	Dak Lak	Viet Nam
Number of administrative units	11 districts	13 districts	642 districts
Geographic area (thousand ha)	467	1,309	32,972
Forest land (thousand ha)	173	614	12,874
Population as of Dec 2005 (thousand people)	813	1,710	83,119

Socio-Economic Indicators	Hoa Binh	Dak Lak	Viet Nam
Rural population (% over total)	85%	78%	73%
Ethnicity	Over 7 groups	Approximately 44 groups	Approximately 54 groups
Most populous ethnic group	Muong (approximately 60%)	Kinh (approximately 72%)	Kinh (approximately 77%)
Economic growth rate in 2006	12.7%	9.11%	8.17%
GDP per capita per year	VND5.2 million	VND5.95 million	VND11.6 million
Poverty rate (as of 2004)	20.6%	28%	19.5%

Source: GSO (2006), [www.gso.org.vn](http://www.gso.org.vn)

### 3.2 Overview of Dak Lak Province

Dak Lak is located in the center of Viet Nam's Central Highlands region (Figure 3). It shares borders with Gia Lai province to the north, Lam Dong province to the south, Phu Yen and Khanh Hoa province to the east, and Dak Nong province and the Kingdom of Cambodia to the west. The province has 12 districts and one municipality. It covers a geographic area of around 1.3 million ha, of which 614,000 ha (47.3%) is forest land. Agricultural land accounts for 478,000 ha (36.7%) of the total territory.

As of 2005, Dak Lak's total population was around 1.7 million people, many of whom migrated to Dak Lak during the last three decades. Around 78% of the population lives in rural and mountainous areas. There are around 44 different ethnic groups in the province, with the Kinh being the largest group (around 72% of the total population). Indigenous groups (e.g. the Ede, the Jarai, and the Mnong) account for approximately 20% of the total population, living primarily in the province's forested areas.

Like Hoa Binh, Dak Lak's economy has grown at a robust pace, averaging an annual growth rate of 9–10% (9.11% in 2006) over the last several years. The average annual per capita GDP of Dak Lak at present is around VND5.95 million (VND496,000 per month). Most of the income comes from agricultural products such as coffee, pepper, maize, beans, and rice. However, while Dak Lak's economic growth has allowed for significant gains to be made in poverty alleviation, Dak Lak remains a poor province. The provincial poverty rate of the province is currently estimated at 28%.



Figure 3: Map of Dak Lak Province



A snapshot of a study village in Hoa Binh

### 3.3 Overview of the Study Villages

**Study villages in Hoa Binh province:** The four selected villages in Hoa Binh are located in Lac Son and Mai Chau districts (see Annex C for more information on the study villages). The two villages located in Lac Son district, Song and Khanh, are in Tan My commune. Located in the semi-upland areas, both villages have relatively good infrastructural conditions. The Muong are the most populous ethnic group in Song and Khanh villages. Local livelihoods are principally based on agriculture, with the most prominent crops being wet rice, maize, and sugar cane. Raising livestock, particularly cattle and pigs, also plays a role in the local economy.

The two villages in Mai Chau district, namely Noong Luong and Cha Day, are located in the mountainous area of the province. Both villages are relatively difficult to access, particularly during the rainy season. Thai people are the dominant ethnic group in both villages. Agriculture is also the most important source of livelihoods, with the main crops being wet rice, maize, and other annual crops. Raising livestock (cattle, buffalo, and pigs) is well developed in both villages.

**Study villages in Dak Lak province:** The four selected villages in Dak Lak are also located in two different districts (see Annex C for more information on the study villages). Cham B and Tul villages, in Krong Bong district, are relatively easy to access. Cham B is predominantly populated by Ede people, and Tul by the Mnong ethnic group. The most important source of livelihoods in Cham B is the cultivation of upland coffee, maize, beans, and rice. In Tul, coffee, maize, and paddy are the most popular crops. Raising livestock is also common in both villages.

T'Ly and Diet villages are in Ea Hleo district and have medium quality road access. People of the Jarai ethnic group form the majority of both village populations. Local livelihoods are mostly agriculture-based, focusing on pepper, coffee, maize, and upland rice. Cattle raising is also common in both villages.



# 4

## Forest Tenure in Hoa Binh and Dak Lak Provinces

# 4

## Forest Tenure in Hoa Binh and Dak Lak Provinces

This section answers research question one, regarding the current status of forest tenure arrangements in the study provinces. We first present a descriptive analysis of the major forest tenure arrangements at the provincial level. Secondly, we describe the situation of forest tenure in all the study villages. Both secondary data at the provincial level and primary data collected from the eight study villages are used for analysis.

### 4.1 Forest Tenure Situation at the Provincial Level

To date, there are eight different forest tenure groups in both Dak Lak and Hoa Binh (Table 3). They are as follows: 1) individual households, 2) communities (including household groups), 3) communal people's committees (CPCs), 4) management boards for protection forest (MB-PFs), 5) management boards for special-use forest (MB-SUFs), 6) state-owned companies (SOCs), 7) joint-venture companies (JVCs), and 8) the armed forces. Each forest tenure group is described in greater detail below.

**Individual households:** Forest management by individual households did not exist in the past, neither in statutory law nor in customary practice. This form of forest tenure has only been introduced in both provinces through FLA. Currently, individual households in Hoa Binh manage the largest area (167,890 ha or 79%) of any forest tenure group in the province. While individual households in Dak Lak rank first in the province among forest tenure groups in size by number, they rank last in size according to managed forest area (4,470 ha or 0.8%).

**Communities:** Various forms of community-based forest management have traditionally been practiced by ethnic minority groups. It is assumed that traditional community forest management (CFM) still exists in most indigenous villages, although its practice may be influenced from outside. In Dak Lak, FLA has led to the establishment of a legally recognized form of CFM, which may include a whole village or simply a group of five to ten households. The striking difference between traditional and introduced forms of CFM is that the latter entitles forest managers a forest land-use title. Such titles theoretically guarantee the legal recognition of the rights and benefits of the community members with regard to the forest resources. There are currently 106 CFM groups in Dak Lak, which include 22 villages and 84 household groups. However, only one community in Hoa Binh manages its local forest, and this is only through a contract arrangement, meaning no forest land-use title has been issued to the community. No data are currently available regarding the number of local groups practicing traditional CFM in both provinces.

**Communal people's committees:** CPCs serve as temporary custodians of forest areas that were formerly managed by SFEs and which are in the process of being allocated to individual households or community groups. CPCs therefore do not have full tenure rights to allocated forest areas, and in practice, such areas often turn into informal "open access" zones, as many CPCs lack adequate staffing to oversee their resources. There are currently 67 CPCs in Hoa Binh and 100 in Dak Lak.

**Management boards for protection forest:** MB-PFs are state organizations whose main task is to manage forest areas that are classified for protection purposes. MB-PFs receive funding from the state (mostly from provincial governments) for managing their forests. At present, data on the number of MB-PFs in Hoa Binh are not available; in Dak Lak, only two MB-PFs are in operation.

**Management boards for special-use forest:** Similar to MB-PFs, MB-SUFs are also established and run by the state. However, MB-SUFs focus on managing the conservation forests (e.g. forest areas designated as having high value biodiversity or cultural significance). Areas in Dak Lak currently under MB-SUF management include two national parks, two conservation areas, and one historical forest area. The number of MB-SUFs in Hoa Binh is not available, and only 4.4% of the province's forest area is under MB-SUF management. In Dak Lak however, five MB-SUFs manage almost 38% of that province's forests.

**State-owned companies:** SOCs, formerly known as state forest enterprises, 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 undergone a renovation process.<sup>7</sup> SOCs in Hoa Binh manage only 4.1% of the provincial forest area, while in Dak Lak such companies are the largest forest tenure group in terms of forest area under their responsibility, with 15 SOCs managing more than 38% of the provincial forest area.

**Joint-venture companies:** JVCs managing forests include both state- and private-owned companies. They are in charge of safe-guarding the protection forests and commercializing the production forests allocated to them. Data on JVCs in Hoa Binh are unavailable. In Dak Lak province, there are two companies of this type, whose main activities currently include overseeing plantations, and tending production and protection forest.

**The armed forces:** The armed forces are mostly in charge of forest areas used for national security purposes.

**Table 3: Distribution of 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 forces	11,132 (5.2%)	n/a	17,643 (2.9%)	1
<b>Total</b>	<b>212,650 (100%)</b>		<b>616,410 (100%)</b>	

<sup>†</sup> numbers in parentheses represent the percentage of forest owned by the group over the total forest area  
Source: Dak Lak Forest Sub-Department, Nguyen and Working Group Members (2007)

The two provinces vary in terms of forest type managed by each tenure group. In both provinces, production and protection forests have been allocated to various tenure groups for commercialization and protection purposes, but special-use forests are solely under the management of MB-SUFs in Dak Lak (Table 4). While a variety of forest tenure groups manage land classified as "special-use forest" in Hoa Binh, it should be noted that land under that designation managed by individual households consists only of non-forested (i.e. bare) land.

**Table 4: Distribution of Forest Types by Tenure Groups in Hoa Binh and Dak Lak**

Tenure Groups*	Hoa Binh			Dak Lak		
	Production Forest (ha)	Protection Forest (ha)	Special-Use Forest (ha)	Production Forest (ha)	Protection Forest (ha)	Special-Use Forest (ha)
1. Households	73,071	94,416	404	4,498	242	0
2. Communities	0	887	0	9,938	3,003	0
3. People's Committees	1,611	2,124	0	50,721	20,933	0

Tenure Groups*	Hoa Binh			Dak Lak		
	Production Forest (ha)	Protection Forest (ha)	Special-Use Forest (ha)	Production Forest (ha)	Protection Forest (ha)	Special-Use Forest (ha)
4. MB-PFs	9,345	12,754	18,040	2,081	32,605	0
5. MB-SUFs				0	0	233,582
6. State-owned companies				165,736	69,597	0
7. Joint-venture companies				4,434	1,397	0
8. Armed forces				8,904	8,738	0
<b>Total</b>	<b>84,026</b>	<b>110,180</b>	<b>18,444</b>	<b>246,312</b>	<b>136,516</b>	<b>233,582</b>

\* No disaggregated data are available for the last five groups in Hoa Binh province.

Source: Dak Lak Forest Sub-Department, Nguyen and Working Group Members (2007)

In terms of forest quality, MB-SUFs are managing the best quality forests in both provinces (Table 5). This is because special-use forest areas are strictly protected for conservation purposes. In Dak Lak province, most of the natural forest area is under the management of MB-SUFs and SOCs. By contrast, in Hoa Binh individual households manage the largest area of natural forest. However, forests under the management of individual households and communities are often of low quality, as they are mostly degraded natural forests (a product of previous SFE logging activities), plantations, and bare land.

**Table 5: Distribution of Forest Quality by Tenure Groups in Hoa Binh and Dak Lak**

Tenure Groups*	Hoa Binh			Dak Lak		
	Natural Forest (ha)	Plantation (ha)	Bare Land (ha)	Natural Forest (ha)	Plantation (ha)	Bare Land (ha)
1. Households	89,213	50,287	28,390	2,219	1,545	977
2. Communities	887	0	0	11,987	955	0
3. People's Committees	2,561	386	787	68,140	502	3,012
4. MB-PFs	9,345	12,754	18,040	32,891	1,626	170
5. MB-SUFs				227,315	448	5,819
6. State-owned companies				217,808	9,726	7,800
7. Joint-venture companies				623	3,608	1,600
8. Armed forces				17,138	4	501
<b>Total</b>	<b>121,011</b>	<b>60,093</b>	<b>31,546</b>	<b>578,119</b>	<b>18,412</b>	<b>19,879</b>

\* No disaggregated data are available for the last five groups in Hoa Binh province.

Source: Dak Lak Forest Sub-Department, Nguyen and Working Group Members (2007)

## 4.2 Forest Tenure Arrangements in the Study Villages

Two distinctive pictures of forest tenure emerge from the study villages. In all four study villages in Hoa Binh, individual households manage forests, whereas in the four study villages in Dak Lak, local people manage forest resources on a collective basis (Table 6).

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

In Cham B in Dak Lak, forest is currently managed by five groups of ethnic Ede households. The allocation of forest land solely to Ede people during the village's FLA process has excluded the community's Kinh households from participating in local forest management. 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, local forests were initially allocated to individual households for management at the outset of the province's FLA program. Later on, however, reallocation of forest took place in those villages and forest has since then been managed by the community as a whole. Sub-Section 5.1 provides more detail on FLA processes in the Dak Lak study villages.

**Table 6: Area of Forest Allocated to Local People in the Study Villages**

Villages	Total Area of Allocated Forest (ha)	Forest Recipients <sup>†</sup>	Forest Title was Given to
<i>Hoa Binh province</i>			
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
<i>Dak Lak province</i>			
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

<sup>†</sup> Number in parentheses refers to the percentage of forest recipients over the total households in the village

Source: Village surveys

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) to collect timber and use allocated forest land for non-forestry purposes. In the end, actual control over the forest is still maintained by the state, even though tenure rights have formally been given to local people.

Production forests are the primary forest type currently managed by study villages (Table 7). This type of forest is found in seven out of eight villages. Protection forests are present in three cases: Cha Day and Noong Luong in Hoa Binh, and Tul in Dak Lak.

The quality and quantity of forest resources managed by local people varies across study villages (Table 6). In general, the forest quality in study villages in Dak Lak is better and the average size of forest per household is larger than those in Hoa Binh. On average, each household with forest rights in all eight study villages has around 7.6 ha. The average figure for villagers in Dak Lak is 10.1 ha per household, compared to only 3.4 ha per household in Hoa Binh villages. For example, households that took part in FLA processes in Song village, Hoa Binh, have only an average of 2.98 ha of forest land. Additionally, the forest there is of low quality. Of the total 110.2 ha of allocated forest land for the village, there are 92.5 ha of poor natural forest and 17.7 ha of plantation forest. Similar to Song, the dominant forest in Khanh, another Hoa Binh village, is also of poor quality. However, the average size of forest land per household in Khanh is much larger, at 7.28 ha. Noong Luong and Cha Day villages, the two other Hoa Binh study villages, have medium quality natural forest

(with some plantation forest), but their average forest areas per household fall below that of Khanh, at 3.89 ha and 2.37 ha respectively.

**Table 7: Forest Type and Quality in Study Villages**

Villages	Type of Forest	Forest Quality
<i>Hoa Binh province</i>		
Song	Production forest	poor quality timber forest and plantation
Khanh	Production forest	poor quality timber forest and plantation
Noong Luong	Production and protection forest	medium quality timber forest and plantation
Cha Day	Protection forest	medium quality timber forest
<i>Dak Lak province</i>		
Cham B	Production forest	medium quality mixed timber and bamboo
Tul	Production and protection forest	medium and poor quality timber forest
Diet	Production forest	medium and poor quality timber forest
T'Ly	Production forest	poor quality timber forest

Source: Village surveys

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 neighboring villages and those belonging to other tenure groups. For example, in the Dak Lak study villages of Cham B and Tul, surrounding forest areas are under management by a CPC, a local SOC, and other villages. Similarly, there are forests managed by a local SOC and other villages around Diet and T'Ly. In Song and Khanh, forest land surrounding is also under the management of a 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.

### 4.3 Summary of Forest Tenure Situation in the Study Sites

This section introduced the current forest tenure situation in Hoa Binh and Dak Lak provinces at both the provincial and study-village levels. Significant progress has been made in shifting from a state-centered forest management regime to multi-stakeholder forestry, with eight major forest tenure groups from both state and non-state sectors currently managing forests in the two study provinces. The increased presence of multi-stakeholders in forest management in both provinces reflects the quick response of the Vietnamese government to adapt to emerging needs in the forestry sector.

However, in both provinces the best quality forests are still under the management of state actors. Non-state actors, particularly local people, are mostly managing poorer forests. Most importantly, the state retains a strong role in deciding the use of forest resources allocated to local people. For timber logging and the use of forest land for agriculture, legal permission from appropriate state authorities is still required.

A striking difference between the two provinces is the size of forests under different tenure arrangements. In Hoa Binh, most of the province's forest land is under the management of individual households. In Dak Lak, however, state actors hold a disproportionately large share of forest area in the province; local people hold relatively very little.

At the village level, contrasting pictures of forest tenure between the two provinces have also emerged. In Hoa Binh, allocated forests are managed by individual households, while in Dak Lak, local people typically manage forests in a collective manner. In most cases, people in Hoa Binh have poorer and smaller forests than those in Dak Lak.

# 5

## Implementation of Forest Tenure at the Local Level

# 5

## Implementation of Forest Tenure at the Local Level

This section addresses research question two of our study, regarding the implementation of forest tenure at the local level. We have used the data collected from the eight study villages to comparatively examine different contexts in which forest tenure arrangements are shaped (and reshaped) at the village level. We begin by discussing the FLA implementation in the study villages and elaborate on how state forest tenure policies were introduced at the village level. We then detail how forest tenure rights have actually been realized in practice. We go on to elaborate how forest resources have changed since the implementation of FLA, and discuss the influence of customary practices on forest tenure situation (before and after FLA). The section ends with a summary of major issues presented in the section.

### 5.1 Forest Land Allocation Process in the Study Villages

#### 5.1.1 Forest Land Allocation in Hoa Binh Province

The first FLA program in Hoa Binh was an experimental project entitled Renovation of Strategies for Forest Development, under the then-Ministry of Forestry. The experiment took place from September 1993 to July 1994, and covered three communes: Tu Ne of Tan Lac district; and Hang Kia and Pa Co, both of Mai Chau district. Its aim was to develop a method for forest land allocation that followed relevant laws and regulations (i.e. the 1993 Land Law and the 1991 Forest Protection and Development Law). By mid-1994, the project had allocated 398 ha of bare land and 285 ha of plantation land to local people in Tu Ne commune. Additionally, 435 ha of natural forest in Tu Ne, 571 ha in Hang Kia, and 922 ha in Pa Co communes (a total of 1,928 ha) were contracted for protection purposes (Vu and Vu 1996).

The FLA policy was also implemented in other areas of Hoa Binh province, including the study sites. This FLA took place in 1993–1994 as well, following Decision 64/ND-CP (dated 27 September 1993) on the allocation of agricultural land to households. The FLA process moved forward without any support from development projects. In both Mai Chau and Lac Son districts, the Forest Protection Unit worked with the District People's Committee to prepare and implement FLA plans.

In Noong Luong and Cha Day villages, Mai Chau district, forests were allocated to households according to the location of upland fields held by these households at that time. Local households were given forest near their existing fields so that it would be easy for them to take care of the allocated forest. By 1998, forest RBCs were given to recipient households. The titles, however, did not serve as proof of full legal rights<sup>8</sup> to allocated forest land, as the RBCs state that such forest land is only *contracted* to RBC holders. Consequently, these forest RBCs did not grant their holders the full rights to forest land as stated in the then-existing Land Law and thus did not carry much value for the local people.

FLA processes in Song and Khanh villages of Lac Son district came to a similar outcome. Local people in the two villages were given forest land in 1993 and received forest RBCs in 1995. These forest RBCs also state that forests are only contracted to the recipients.

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<sup>8</sup> E.g. rights to transfer, exchange, mortgage, lease, and inherit the land-use title.



### 5.1.2 Forest Land Allocation in Dak Lak Province

Dak Lak has been a pioneer in Viet Nam in the allocation of natural forest to local people. The provincial FLA program started in 1998–1999. During the first three years of the program, forests were allocated to individual households and households groups. After that, the province began to experiment with allocating forest to entire communities. Forest RBCs were given to all local forest managers, including individual households, household groups, and communities.

Forest RBCs given to individual households in Dak Lak are valid for 50 years and renewable, along with a contract (co-signed by the household and CPC, and also valid for 50 years) stating conditions, rights, benefits, and duties with regard to the allocated forest. In addition, individual households managing forests are also entitled to other rights as specified by the 2003 Land Law, which include rights to transfer, exchange, inherit, mortgage, and lease the forest RBC. Similar to forest RBCs given to individual households, community RBCs are valid for 50 years. However, the legal rights to the forest resources that a community has are limited to rights to use forest resources and do not include rights to transfer, exchange, inherit, mortgage, and lease as individual households.

Between 1998 and 2001, the program received technical support from the GTZ-funded SMRP. Since 2003, the program has received support from the GTZ-funded Rural Development Project in Dak Lak (RDDL). Local SFEs were the primary implementing agencies in Dak Lak's FLA program. They formerly managed forests to be allocated to local people. During the FLA process, they selected the forest area to be allocated.

#### Forest Land Allocation in Diet and T'Ly Villages

Diet and T'Ly, along with two other villages in Ea Sol commune, were initially selected to be covered under the provincial FLA program. Fieldwork at the village level started in mid-1998 and was completed by early 2000. In Diet, the program allocated around 293.5 ha of forest to 20 individual Jarai households, while in T'Ly, only nine households were selected to receive a total of 139.1 ha of forest. Forest RBCs, along with contracts specifying the rights and obligations of the local forest managers, were handed over to recipient households in both villages in March 2000.

The outcomes of the 1998–2000 FLA program in both Diet and T'Ly gave rise to two major issues. First, it gave legal access to forest to only a small number of households. The households that received forest in Diet at that time represented no more than 40% of the number of households in the village. In T'Ly, the proportion was even lower, with recipient households making up less than 10% of the total number of households. People who did not receive forest in both villages complained about the inequitable distribution of forest resources.

The second issue was that the forest management under individual households was not a customary practice of the local Jarai people residing in both communities. These people were more accustomed to forest management on a communal basis, with allocation of forest plots to individual households being a foreign idea (Nguyen 2005; Tran 2005). As a consequence, local people demanded a more equitable way of managing forests. Local authorities responded to those requests.

In 2003, forest was reallocated with support from RDDL in T'Ly, with the village receiving an area of 1,127.5 ha of forest (including the 139.1 ha forest originally allocated to nine households). In November 2004, the village forest protection and development plan was prepared and put into action. In Diet, forest was reallocated in 2004, with the state reclaiming 293.5 ha of forest originally received by 20 households and reallocating this area to the whole village. In July 2005, the village forest protection and development plan was prepared in Diet village and then put into operation.

### **Forest Land Allocation in Cham B and Tul Villages**

In early 2000, Cham B and Thon 6 villages of Cu Dram commune were selected for FLA program in Krong Bong district. Field allocation was completed by February 2001, and that June, forest RBCs and contract papers were handed over to recipient groups. A total of around 569 ha of forest were allocated to five recipient groups, comprising a total of 38 Ede households, in Cham B. Only Ede people in Cham B were selected because the program aimed to allocate forest to the indigenous people of the village, which subsequently disqualified the four Kinh households who were living in the village at the time. To date, the number of households within these forest management groups has increased to 55.

After the completion of FLA in Cu Dram commune, the program expanded to Yang Mao commune. Tul was selected to receive forest along with two other villages in the commune. The program, starting in 2001, allocated a total area of 1,130.7 ha of forest to Tul village. A forest RBC was granted to the village in 2002. Although village forest protection and development regulations were set up soon after the completion of the forest devolution program, it wasn't until early 2007, when a project supported by the UNDP Small Grants Programme (SGP) assisted villagers with the revision, that the regulations became effective.

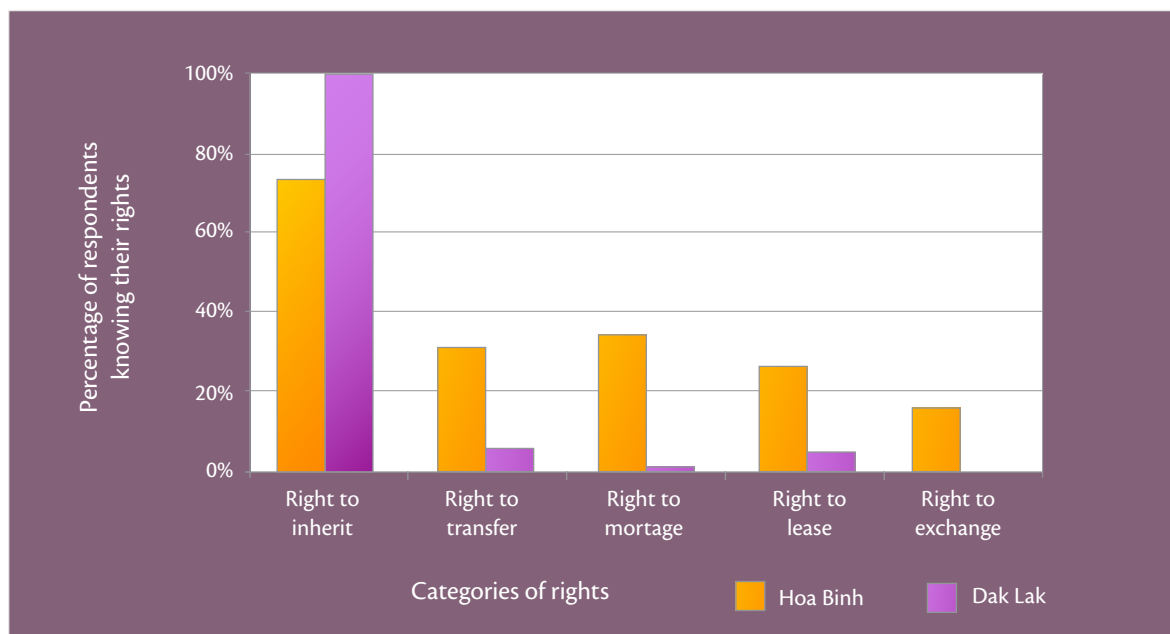
## **5.2 Forest User Rights in Study Villages**

After FLA, forest recipient households have legal rights to forest resources whereas non-recipient households do not have such rights. This sub-section discusses the actual use of forest resources in the study villages. We begin with an overview of the actual realization of legal rights endowed by FLA policies to forest-recipient households. After that, we discuss the current situation of forest use and management by local people, including both forest-recipient and non-recipient households. Finally, we detail how forest tenure has contributed to alleviating poverty among local households.

### **5.2.1 Overview of Legal Rights to Forest Understood and Realized by People**

By law, forest-recipient households holding RBCs are legally entitled to five major rights—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 all study villages in Hoa Binh (where forest land was allocated to individual households); in Dak Lak, this applies to Cham B (where forest land was allocated to household groups), and to Diet and T'Ly from 2000 to 2003, when forest land was allocated to individual households in the villages.

Local people have different understanding of their rights to allocated forests. Most households surveyed, including those in villages where forest land was allocated to whole communities, understand that RBC holders can pass on their forest rights to their children. Knowledge of other rights, however, is relatively limited. Exchange rights are the least known among local people surveyed, with only 9% of the interviewed households in the entire study knowing that RBC holders can exchange their forest title to other people. People's knowledge about the other three rights (i.e. the right to lease, the right to mortgage, and the right to transfer forest land) is better than about exchange rights; however not more than 20% of the total surveyed households know of each. The situation varies across provinces (Figure 4). In Dak Lak, all surveyed households know about the right to inherit, but very few know about other rights. In particular, local people virtually have no awareness of the right to exchange. In Hoa Binh, 74% of interviewed people know about the right to inherit. Knowledge of other rights is observed in 17–34% of the sample size.

**Figure 4: Respondents' Knowledge of Legal Rights to Allocated Forests**

Source: Household surveys, number of respondents (N) = 180 (80 in Dak Lak and 100 in Hoa Binh)

Inheritance has been practiced in both provinces (Table 8). In Cham B, Dak Lak, people receiving forest land from the state grew old and left their forest rights to their children. Similarly, people in study villages in Hoa Binh received forest land from the state and left this forest to their children. In both cases, inheritance of allocated forest land is practiced with agreement between the concerned parties. Such change has not been officially recorded and thus no amendments to RBCs have been made.

**Table 8: Legal Rights to Forest Realized by Local People in Study Villages**

Type of Rights	Hoa Binh	Dak Lak
Right to inherit	Yes, but only in practice; no change in RBC	Yes, but only in practice; no change in RBC
Right to transfer	Not in study villages, but in other villages in the province	Not yet
Right to mortgage	Yes, in Lac Son district; while this right has been realized in production forests, it has not yet been possible to mortgage protection forests	Only in six households in Diet village, with support from development project
Right to lease	Not yet	Only in Cham B village
Right to exchange	Not yet	Not yet

Some local people have also realized mortgage rights. In Diet, 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 piloting forest farm development in the village. In Hoa Binh, people in Song and Khanh villages were able to mortgage their forest RBC for loans. However, people in Noong Luong and Cha Day 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.

Lease rights have only so far been practiced in Cham B, Dak Lak. Local people cleared allocated forest land 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 respondents in the study villages have ever transferred or exchanged allocated forest land. This could be connected with local people's poor understanding of these rights.

### 5.2.2 Actual Forest Use and Management in the Study Villages

After the completion of FLA, local people have continued to use allocated forest resources, as well as forest areas near their villages that are under the management of other stakeholders. Household surveys show that local people in Dak Lak appear to engage more in forest activities than those in Hoa Binh (Table 9). In general, all households surveyed in Dak Lak have used forest resources since FLA, with 99% involved in the collection of non-timber forest products (NTFPs), 63% in clearing of forest land for cultivation, and 36% in the logging of timber trees. The corresponding figures in Hoa Binh are 72% for NTFP collection, 55% for forest clearance, and 42% for timber logging. While we purposefully asked about the use of allocated forest during village surveys, we realize that some respondents may have also mentioned about their collection of timber and NTFPs from the non-allocated forests (i.e. forests held or managed by other tenure groups).

**Table 9: Number of Households in Study Villages Using Forest Resources**

Villages	NTFP Collection		Land Clearing		Timber Logging	
<b>Hoa Binh province</b>	72	(72%)	55	(55%)	42	(42%)
Song	17	(68%)	7	(28%)	12	(48%)
Khanh	14	(56%)	4	(16%)	9	(36%)
Noong Luong	22	(88%)	19	(76%)	11	(44%)
Cha Day	19	(76%)	25	(100%)	10	(40%)
<b>Dak Lak province</b>	79	(99%)	50	(63%)	29	(36%)
Cham B	20	(100%)	14	(70%)	8	(40%)
Tul	20	(100%)	20	(100%)	7	(35%)
Diet	19	(95%)	6	(30%)	8	(40%)
T'Ly	20	(100%)	10	(50%)	6	(30%)
<b>Both provinces</b>	<b>151</b>	<b>(84%)</b>	<b>105</b>	<b>(58%)</b>	<b>71</b>	<b>(39%)</b>

Note: Numbers in parentheses refer to the percentages of households appropriating forest resources over the sample size.

Source: Household surveys, number of respondents (N)=180 (20 per village in Dak Lak and 25 in Hoa Binh)

Actual use of forest resources varies across study villages, particularly timber logging and land clearing. In general, NTFP collection seems to have declined since FLA. In contrast, the clearing of forest land for crop cultivation and logging of timber appears to have increased. Nevertheless, the level of changes in the appropriation of allocated forest resources differs across villages (Table 10).

In Hoa Binh province, timber logging and forest land clearance for cultivation have occurred since completion of FLA. In Song and Khanh, local people converted not only bare land at the edge of the forest but also inside the

forest area into agricultural land. They have also abused the right to collect dead trees for fuelwood by cutting big living trees and waiting until the logs dry out before bringing them home. In contrast, the study observed few land conversion or timber logging activities in Cha Day and Noong Luong.

In the Dak Lak study villages, the clearing of forest land for cultivation purposes has been most pervasive in Cham B. This activity started at the time of FLA and boomed in the later years (see also Nguyen 2005). By contrast, timber logging is most common in Diet and T'Ly. In both these villages, demand for timber for pepper cultivation resulted in strong pressure on timber trees in the forest in this area.<sup>9</sup> As a consequence, timber logging has become a very popular activity in Diet and T'Ly. The latter village is also known as a unique example in Viet Nam where local people have successfully engaged in the commercial logging of timber from allocated natural forests. In August 2006, T'Ly villagers harvested 370 cubic meters of round logs from their allocated forest area. The timber was then sold at the price of VND616 million, which brought a net benefit of VND283 million—a rather handsome amount of income for the local people. In Tul, neither the clearing of land nor logging of timber from the allocated forest has been as popular as in the other three study villages.

**Table 10: Summary of Trends in Using Forest Resources in Study Villages**

Village	NTFP Collection	Land Clearing	Timber Logging
<b>Hoa Binh province</b>			
Song	-	+	+
Khanh	-	+	+
Noong Luong	+	0	+
Cha Day	+	0	+
<b>Dak Lak province</b>			
Cham B	-	+++	+
Tul	-	0	0
Diet	-	+	+
T'Ly	-	0	+++

Note: “-” signifies a decrease in activity following FLA, “+” an increase, and “0” no significant change

Source: Household surveys in study villages

Aside from the aforementioned forest-utilization activities, local people have also invested in tree planting. Similar to other forestry activities, the scale of tree planting varies across study villages (Table 11). In Hoa Binh province, there are forest plantations in all study villages. Between 1994 and 1998, local people planted acacia trees in allocated forests under the support from National Program 327. To date, the plantations are currently in their second and third production cycles.

The four villages in Dak Lak are of two extremes. In Cham B and Tul, with the support of the UNDP's Small Grants Programme for Operations to Promote Tropical Forests (SGP PTF), 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 plantations were found in Diet and T'Ly villages. The only plantation in these two villages was under support from SMRP post-devolution pilot program, which began 2001–2002.

<sup>9</sup> Timber poles (of approximately 0.2 m in diameter and 3-3.5m in length) are preferred materials by local people in the construction of stands for pepper to climb on (see also Nguyen 2005).

**Table 11: Forest Plantations in Study Villages**

Hoa Binh		Dak Lak	
Village	Size of Plantation (ha)	Village	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%)	T'Ly	0 (0%)
Noong Luong	11.1 (5.39%)	Diet	4 (1.36%)
<b>Total (Average)</b>	<b>89 (14.41%)</b>	<b>Total (Average)</b>	<b>194 (6.22%)</b>

Note: Numbers in parentheses refer to the percentage of plantation out of total allocated forest area.

Area of plantation in Diet village is only estimated.

Source: Village surveys

### 5.2.3 Factors Influencing the Realization of Endowed Rights by Local People

The discussion so far has mentioned various factors influencing the realization of legal rights endowed to local people. In this sub-section, we discuss five major groups of factors: (i) support from development projects, (ii) illegal logging, (iii) the gaps between statutory laws and customary practices with regard to forest tenure, (iv) the presence or absence of tangible benefits and clear benefit-sharing arrangements, and (v) 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 at various stages during FLA processes in Dak Lak (Table 12), providing necessary support for the program to function and for the rights endowed to people to be realized. SMRP played an important role in catalyzing the FLA process in the province. As the devolution of the forest rights to local people was new in Viet Nam, no prior experiences existed within the country from which Dak Lak could learn. Additionally, there was high reluctance within the country's forestry sector to allow local people to manage natural forests. In such circumstances, SMRP reviewed and introduced experiences with forest devolution from other countries around the world with the aim of encouraging Dak Lak to proceed with its FLA.

During the course of FLA, SMRP provided technical support through Working Group on Forest Land Allocation, which included elaboration of technical guidelines and policy frameworks on forest allocation in the province. Additionally, the project provided training on village-level facilitation skills and participatory approaches to local officials who ran the FLA program. Most importantly, SMRP emphasized the need to respect local people's traditional practices (in forest and land uses) to its staff members and partners.

After FLA completion, external project support, provided by RDDDL in Diet and T'Ly and by UNDP SGP PTF in Tul and Cham B, helped villagers greater realize their rights and responsibilities as forest managers. Project support primarily came in the form of (i) the development and revision of village forest development and protection regulations, and (ii) the implementation of village regulations. In T'Ly, RDDDL also assisted local people in getting the necessary permission to harvest 370 cubic meters of round logs, having that timber certified by local Forest Protection Unit, and freely auctioning it.

**Table 12: Summary of Donor Support Projects in Study Villages in Dak Lak**

Village	Project Support Provided to Study Village
Cham B	GTZ-funded Sustainable Management of Resources in the Lower Mekong Basin Project (SMRP) supported allocation of forest in Cham B in 2000 UNDP Small Grants Programme for Operations To Promote Tropical Forests (SGP PTF)-funded project MOA 05-013 developed a model of community forest management based on traditional by-laws at Cham B village
Tul	SMRP supported allocation of forest in Tul in 2001 UNDP SGP PTF-funded project MOA 04-005 developed a community forest management model in Tul after the forest had been allocated to the community with land-use right certificates
Diet	SMRP supported allocation of forest in Diet in 1998/1999 GTZ-funded Rural Development Project in Dak Lak (RDDL) supported allocation of forest to community in 2004, and the development and implementation of village forest management and development regulations
T'Ly	SMRP supported allocation of forest in T'Ly during 1998–1999 RDDL supported allocation of forest to community in 2003, and the development and implementation of village forest management and development regulations

### **Illegal Logging**

With a partial logging ban on natural forests enacted in 1992 and consolidated in 1997, the domestic timber supply from natural forests in Viet Nam has decreased from 1.1 million cubic meters in 1991 to 300,000 cubic meters in 2000 and 200,000 cubic meters in 2004 (Nguyen and Working Group Members 2007). Plantation and imported timber have been increasingly relied upon to help meet domestic demand, but pressure on natural forests has increased due to illegal logging. According to an unofficial estimate from the Department of Forestry, about half of the national round wood supply comes from illegal logging (MARD 2005).



**Illegal timber is being transported from an allocated forest to a Dak Lak study village for pepper growing.**



Demand from the domestic and local markets has put pressure on the forest resources in both study provinces. In Dak Lak, the development of pepper cultivation has increased the demand for pepper poles by local people. In Diet, for example, between 1999 and 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 that were not). Yet, none of this timber was collected with logging permits.

In Song and Khanh, Hoa Binh, increasing timber demand by both local people and markets in the other provinces (see also To and Sikor 2006) has ignited a steep rise in the unauthorized logging of the allocated and non-allocated forests. The situation worsened when early violators were caught but did not receive severe fines. Illicit use of timber resources has undermined the efforts of local people to protect the allocated forest. The economic incentives 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 efforts to meaningfully devolve forest rights to local people is the lack of attention given to local practices during FLA implementation. Experiences from the study villages indicate that local forest institutions still play a role in governing forest management activities by local people (Sub-Section 5.4 provides further discussion in this regard). Diet and T'Ly, Dak Lak, are two good examples of what does and does not work when local practices are or are not taken into account during the FLA process. Following the intention to try out forest management by individual households, the earlier FLA process allocated forest to a few individual households in the two villages. However, this form of forest management conflicted with customary practices of community-based forest management of the Jarai people in the two villages, creating intra-communal conflicts between households with forest land and those without forest land. Realizing this problem, government authorities reallocated forest land in both villages, and local people were able to receive forest land for community management. Since then, the two villages have organized themselves (with support from RDDL and local authorities) to protect their forest and benefit from it.

Another example is land clearing in Cham B. Prior to FLA, the Ede people of Cham B used to share the allocated forest area with people of Cham A, the neighboring village, as the forest area traditionally belonged to Ede people in both villages. Nevertheless, the fact that FLA only allocated forest to Cham B legally excluded Ede from Cham A the rights to that forest. Ede from Cham A resisted the allocation by returning to their former fields in the forest to claim them as 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 are proving to be disincentives for local people who take care of the allocated forests. Existing literature indicates that for local people to take collective action in protecting their own forest land, it is important that the benefits of all parties involved be clear and sharing arrangements be transparent. One of the reasons that FLA in Song and Khanh did not achieve their expected outcomes was that the program has been unclear since the beginning about the benefits that the villagers could have gained from forest utilization. For example, there was no explanation from state officials about the rights forest RBCs accorded to people. Furthermore, it was unclear to the villagers whether they "owned" the allocated forest or whether they were only "contracted" to protect it (see discussion in Sub-Section 5.1.1).

By contrast, positive changes in forest management in T'Ly are largely attributable 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 (Viet Nam News November 16, 2006), can potentially serve as a good incentive for local people to sustainably manage allocated forest lands.



Another issue is the distribution of benefits within a village or community. In the Hoa Binh study villages, forest resources were inequitably distributed among households during FLA processes, creating two differentiated groups of households in the village, one with forest and the other without. Even within the former group, forest resources were also distributed inequitably; some households received large areas of forest, while others 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**

The level of local participation in FLA processes varied across villages. In the Hoa Binh study villages, FLA mostly involved those with good access to information such as local officials and their relatives or friends. Other people in the villages who were able to receive forest land only knew about and joined the program when it was almost complete. Even for those who joined early, there was little chance for active participation as state officials dominated discussions during processes. In the end, FLA implementation at the village level followed the design made by officials involved. In Dak Lak, all villages covered by FLA in the early years (such as Diet and T'Ly from the study) also experienced weak participation by local people. Similar to Hoa Binh, the outcomes of FLA in those villages were also solely based on the intention of the FLA working group members. Learning from the initial FLA experience, Dak Lak was able to incorporate a more participatory approach in the second FLA effort. In Cham B and Tul, and particularly during the reallocation in Diet and T'Ly, the participation of local people improved.

Evidence from the study villages demonstrates that the absence of active participation by local people during the FLA process has negative impacts on subsequent forest use and management practices. The main reason is that without meaningful participation, both local people (both forest recipients and non-recipients) and other stakeholders (such as local state agents) are left unsure of their rights, benefits, and duties. In FLA processes where the participation of local people was poor, there was little or no opportunity to discuss state policies and local forest institutions and rules. As a consequence, the state officials involved in FLA were not able to learn from local practices of forest management, and local people were not well informed of state policies related to FLA. This made it difficult for both sides to achieve FLA objectives.

### ***5.2.4 Forest Land Allocation and Poverty Alleviation***

Although the discussion so far has given some indication of the effects of FLA on local livelihoods, the linkages between forest tenure reforms and poverty alleviation in the study villages are still unclear. The main reason is that income generation from forests does not necessarily alleviate poverty as there is no guarantee that any generated income will reach the poor at all. For income generation to contribute to poverty alleviation, a mechanism that proactively supports poor households in the village needs to be in place (Nurse et al. 2003).

Of the study villages, FLA has meaningfully contributed to poverty alleviation only in the case of T'Ly, Dak Lak. Out of the profits earned from commercial logging (described in Sub-Section 5.2.2), VND20 million were given as loans for five poor households in the village (VND4 million per household). Those loans, which were of significant help to the poor households, were used for household economic development activities such as livestock raising.

In most other cases, the benefits that poor households derived from allocated forests were often minor. Forest products with high value often require significant investment of capital or labor, or both (see also Nguyen 2005, 2006b). However, poor households in the study villages generally lack both those resources. As a consequence, the benefits poor households derive from the forest are typically of lower value than those of better-off households.

For the study villages in Hoa Binh, the potential for reverse effects on poverty alleviation was observed. First of all, in order to address needs of the poorest of the poor, FLA was expected to provide those stakeholders with meaningful

rights to forest resources. However, survey results indicate that due to prevailing power relations in the study villages, richer households were able to gain access to the allocated forests while the poorer people were 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 during the forest allocation process. Only communal and village officials and their relatives, which comprised the richer households in the village, were informed of the program and were able to apply for the land on time. Other households in the village did not know of the program until it was too late to apply.

Secondly, power relations influenced the distribution of allocated forest resources even among those households who received forest land. In Song village, forest plots were unevenly distributed among recipient households; some households only received 1 ha of natural forest land and 0.3 ha of plantation land, while others were allocated natural forest plots as large as 16 ha and up to 3 ha of plantation land. Generally, it was households with kinship ties to local officials who were able to receive forest of higher quality and closer proximity to the village.

### 5.3 Changes in Local Forest Resource Use and Marketing Since Allocation

#### 5.3.1 Changes to Date in the Study Villages

There have been changes in forest resource use and trading since FLA completion (Table 13). In terms of NTFP collection, the situation varies across districts. In Cham B and Tul, located in Krong Bong district in Dak Lak, it has become more difficult to collect NTFPs than in the past. The main reason is that NTFP collection by Hmong migrants, who have recently come in thousands to the district, has increased scarcity of forest products. In Diet and T'Ly, located in Ea Hleo district in Dak Lak, however, local people have not noticed any major changes in the NTFP resource base available in allocated forests. The situation is also different in Hoa Binh. Song and Khanh, in Lac Son district, experienced a significant decline in NTFP resources in the allocated forest due to overexploitation (by not only study villagers but also outsiders) since the date of FLA. This has been driven by the increased market demand for NTFPs. By contrast, there has been an increase in the quantity of NTFP resources in Noong Luong and Cha Day, in Mai Chau district. The allocated forests in these two villages were exhausted at the time of allocation, and forest protection by local people has contributed to resource regeneration.

There has been a general trend of decline in the availability of timber for harvest due to illegal logging in study villages in Dak Lak, except in Tul, where accessibility to allocated forest is difficult. Nevertheless, a major change has been the legal recognition for people to extract timber for housing and commercial purposes. As presented in Sub-Section 5.2.2, after three years of protecting the allocated forest resources, people of T'Ly harvested 370 cubic meters of round logs from their own forest. The legality of the logs was certified by local Forest Protection Unit, and T'Ly villagers were able to freely sell them at open auction. This was a remarkable advance in Viet Nam's timber logging and trading (Viet Nam News November 16 2006). In Hoa Binh, timber logging has become more difficult in Song and Khanh, due to a decline in the timber resource base. By contrast, villagers surveyed in Noong Luong and Cha Day estimated an increase in timber resources.

There has been a general increase in land conversion in study villages in Dak Lak following FLA. The lone exception is T'Ly, where local people have mainly cultivated in their permanent fields. Cham B had the greatest increase in upland field area in forest zones compared to other study villages. In Hoa Binh province, the situation is different across districts. Although the Government's fixed cultivation and sedentarization policy does not endorse conversion of allocated forest to cropping land and each village has zones designated for agriculture, people in Song and Khanh maintain agricultural fields in allocated forest areas. It is only in Noong Luong and Cha Day that local people have not encroached upon forest land.

**Table 13: Changes in Forest Resource Use and Marketing in Study Villages**

Activities	Hoa Binh	Dak Lak
Extraction of NTFPs	Song & Khanh: more difficult now due to overexploitation since allocation  Noong Luong & Cha Day: easier now as forest was seriously degraded at the time of allocation	Cham B & Tul: more difficult now due to extraction by Hmong migrants  Diet & T'Ly: local people have other income alternatives and rely less on NTFPs
Timber logging	Song & Khanh: decline in timber resource base due to illegal logging  Noong Luong & Cha Day: easier due to more timber in the forest now	More difficult now due to the clearing of forest land for cultivation by local people and illegal logging for pepper poles
Clearing of land in allocated forest	Fixed cultivation and sedentarization policy did not endorse agricultural cropping in allocated forest but forest encroachment has occurred in Song and Khanh	More common now as cultivation is possible under FLA policy
Forest product trading	No major change	Only in T'Ly has commercial logging and trading of timber happened; not in other study villages

### 5.3.2 Factors Contributing to the Changes in Forest Conditions and Marketing

The discussion in the previous sub-section indicates that FLA has not been the only factor influencing the changes in the use and trading of forest resources. The following discussion briefly presents how FLA has contributed to such changes and what other factors have influenced such changes. Table 14 also presents a summary of the factors.

#### **Extraction of Non-Timber Forest Products**

In Dak Lak, changes in extraction of NTFPs in Cham B and Tul are primarily attributable to the presence of the large number of Hmong migrants in the surrounding areas. Although official statistics of the number of migrants into the area were not available at the time of research, it is unofficially estimated that the Hmong community in the surroundings of Tul and Cham B villages has increased from about 1,000 in 1999 (before FLA) to 2,000 in mid-2002, and to more than 3,000 at the time of the study. The increase in the Hmong population of the area has exacerbated pressure on agricultural and village land, as well as on forest products needed for daily use by local people.

In Hoa Binh, changes in NTFP extraction in Song and Khanh can largely be attributed to market pressure. Increase in demand for NTFPs, particularly medicinal herbs, has contributed to the overexploitation of local forest resources during the last decade. By contrast, degraded forest at the time of allocation has been well protected by local people in Noong Luong and Cha Day; the improvement in quality forests managed by those villages has significantly contributed to the increase of NTFP resources.

#### **Timber Logging**


Factors contributing to changes in timber logging in Dak Lak vary across villages. In all four study villages, population growth has increased demand for new housing, and villages have gained legal rights to harvest timber through FLA policies. In Diet and T'Ly, demand for timber poles for pepper planting has greatly contributed to the illegal extraction

of timber products. T'Ly is the only case in which FLA and donor project support (i.e. RDDDL) have contributed to the realization of the people's rights to harvest and commercially trade timber products.

In Hoa Binh, the decline in availability of local timber resources in allocated forest is largely due to illegal logging driven by high demand for timber in the domestic market. This is particularly the case in Song and Khanh, where some illegal loggers, caught soon after FLA completion, were not properly punished. Local people felt that this was unfair and did not see any benefit in continuing to protect allocated forests. Consequently, they did not expend sufficient effort in protecting allocated forests. In Noong Luong and Cha Day, the increase in timber resources is due to the good forest protection practices of local people.

### **Use of Allocated Land for Cultivation**

In Dak Lak, three important factors contributed to an increase in land conversion after FLA. First, local people have always considered allocated forests as belonging to them, having cultivated agricultural fields in such forests for generations. When those forests were nationalized and placed under the management of SFEs after 1975, local people were not allowed to clear forest land for cultivation; nevertheless, they still considered the fields in the forest theirs. FLA provided them a second reason to clear forests, as they saw FLA as a recognition of their rights to use part of the bare land in the allocated area for agriculture. Thirdly, local people have actively sought to accumulate and clear more forest land for cultivation, as they fear that population increases in the future will make agricultural land scarce.



Conversion of allocated forest into cultivation land in a study village in Dak Lak province

In Hoa Binh, the national Government's fixed cultivation and sedentarization policy, which encourages people to apply permanent farming, was introduced in the first study villages in 1988. In Noong Luong and Cha Day, the observation of this policy and good protection of allocated forest by villagers have significantly contributed to keeping agricultural activities out of the forest. However, in Song and Khanh, the fact that early violators did not receive due punishment has provided local people a reason to grab pieces of forest land for themselves.

### Forest Product Trading

As mentioned previously, the change in forest product trading (mostly timber in T'Ly village) is due to recognition of people's rights to extract and trade timber, as specified in FLA policy and supported by RDDDL.

**Table 14: Factors Influencing Forest Resource Use and Trading in Study Villages**


Activities	Hoa Binh	Dak Lak
Extraction of NTFP	<ul style="list-style-type: none"> <li>▪ Market pressure in Song &amp; Khanh</li> <li>▪ Good protection of forest in Noong Luong &amp; Cha Day</li> </ul>	<ul style="list-style-type: none"> <li>▪ Increase in local population through migration</li> </ul>
Timber logging	<ul style="list-style-type: none"> <li>▪ Market demand for timber</li> <li>▪ Good protection of forest in Noong Luong &amp; Cha Day</li> </ul>	<ul style="list-style-type: none"> <li>▪ T'Ly: FLA, donor support project, market pressure (pepper poles)</li> <li>▪ Diet: market pressure (pepper poles)</li> <li>▪ All villages: population growth, rights to timber endowed by FLA policies</li> </ul>
Clearing of land in allocated forest	<ul style="list-style-type: none"> <li>▪ State policy on fixed cultivation and sedentarization</li> <li>▪ Good protection of forest resources in Noong Luong &amp; Cha Day</li> <li>▪ Lack of proper treatment of early violators</li> </ul>	<ul style="list-style-type: none"> <li>▪ Many people used to cultivate in allocated forest in the past</li> <li>▪ Recognition of rights to use allocated land for cultivation by FLA policy</li> <li>▪ Land accumulation due to population growth</li> </ul>
Forest product trading		<ul style="list-style-type: none"> <li>▪ T'Ly: FLA, donor support project</li> </ul>

## 5.4 Influence of Customary Practices to Local Forest Management

This sub-section discusses how customary practices have been integrated in current forest management in the study villages. The discussion focuses on four main points: (i) the existence of customary practices in the management of communal forests before FLA took place, (ii) the role of the traditional village headman in the FLA process and in daily utilization of forest resources, (iii) respect of customary practices during FLA process and in the use and management of the allocated forest (forests managed by individual households in the case of Hoa Binh or community forests in Dak Lak), and (iv) the representation of traditional forest management knowledge in existing forest governance at the village level. For our research, we assumed that the presence of these factors in a village gives a good indication of the integration of customary forest management practices. A summary of the discussion is presented in Table 15.

### **5.4.1 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 Dak Lak. In Cham B, the allocated forest area used to be the communal forest of the indigenous Ede people, providing them with sources for shelter and livelihoods. The area of forest had traditionally belonged to the Ede community of Cham B and the neighboring village of Cham A (who lived with Cham B villagers as one village pre-1990 [see also Tran and Sikor 2006]). All indigenous people living in the area respected this tradition and had to ask for permission from Cham B people (usually the traditional village headman) before they could harvest timber or clear forest land (Box 6 provides a description of local customs regulating access to such forest). Similarly in Tul, the allocated forest area was regarded as property of Tul villagers according to traditional practices. All Mnong ethnic people in surrounding villages recognized this tradition. Within Tul, there was an awareness of forest areas in which logging and land clearing were and were not allowed.



A mango tree planted in the middle of farmed land is a symbol of customary ownership of that land.

### Box 6: Traditional “Forest Ownership” in Cham B Village

Similar to many other indigenous villages of Viet Nam’s Central Highlands, Cham B villagers have been living in close connection with the forest for generations. Villagers still maintain a traditional system of ownership to forest resources despite the forest being designated state property.

The allocated forest is locally recognized as having belonged to the village for generations. For Cham B villagers, access to arable land in this forest area is regulated by their local institutions. Farmers whose parents used to farm in this forest area can go back and place their claim on this land. As a tradition, when someone first cleared a patch of forest for cultivation, (s) he would plant several mango trees in the field to mark the ownership. After the land was left fallow, the mango tree would become a symbol of “land ownership” recognized by all villagers.

Similarly, local people also have a traditional way of claiming ownership on timber trees, which is based on a “first see, first own” basis. Households seeking timber for their houses set their claim on a tree by making a clear and visible mark on the tree trunk. A tree in the forest with a mark on the trunk means it has been “owned.” Only the person who made the mark has the right to take the tree home. Violation is determined by traditional rules, with a traditional village headman deciding punishment. This headman is also responsible for settling disputes in accordance with customary law.

Source: Nguyen 2005

In T’ly, the allocated forest used to be the sacred forest of the villagers. There was an area in this forest from which local people collected timber only for the village’s traditional events; logging for other purposes was prohibited there. 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. Aside from NTFP collection, the use of such forest area was only for people from the village. Outsiders required permission by the village for timber logging. In Cha Day village, there was an area of forest that was used for water resource protection. Cha Day villagers took collective care of the forest area for their needs.

#### 5.4.2 Role of the 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 processes. 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 also Nguyen 2006a; Tran 2005).

Differences are found in the study villages in Hoa Binh. In Song and Khanh, where villagers are of the Muong ethnic group, 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. In contrast, traditional village headmen in the ethnic Thai villages of Noong Luong and Cha Day 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 overall forest use and management. Of all the interviewed households in both provinces, only two (1.1% of the sample) mentioned that they asked their respective traditional village headmen for opinions and permission before they collected timber. The permission or opinion of traditional village headman is not typically sought for the collection of NTFPs or for clearing the forest for cultivation.



Instead, interviewed households and traditional village headmen themselves emphasized the role of state-elected village heads for getting permission or opinions regarding forest utilization.

### **5.4.3 *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, indigenous people in the study villages still maintain various local institutions governing the use and management of local forest resources. During FLA processes, traditional forest boundaries between study villages and their neighbors were taken into account. In daily life, various customary practices are still applied by local people, even in allocated forests. As summarized in Box 6, local people continue to respect customary practices regarding forest resources in Cham B. In Hoa Binh, some customary forest-use practices are still being applied in forests allocated to individual households. In the Thai villages of Noong Luong and Cha Day, for example, people who collect medicinal herbs from the forest must leave plant 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 as economic growth and population pressure increases demand for forest resources. In Dak Lak, timber logging and forest clearance for agriculture has increased, as people fear that forest land and resources are getting scarcer and will be more difficult to obtain in the future. In Hoa Binh, customary practices of sustainable harvesting are dying as the collection of NTFPs for commercial purposes increases.

Migration has also contributed significantly 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 members of the indigenous Ede group. As a consequence, violations of such practices by migrants cannot be solved by customary law. Within the study villages, there is also decline in other customary practices. Local people, who in the past would ask for advice and permission from the traditional village headman for timber logging or land clearing, now turn to the 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.

### **5.4.4 *Forest Governance at the Village Level***

Existing forest governance structures in the Dak Lak study villages show more integration of customary practices than in the villages in Hoa Binh. As discussed earlier (in Sub-Sections 5.1 and 5.4.1), prior experiences in communal forest management exist in all study villages. The current form of forest management in Dak Lak study villages is somewhat related to the previous forms of traditional forest management. In Diet and T’Ly, 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 (Box 7).

#### **Box 7: Forest Governance Structure of T’Ly Village**

After forest was reallocated to include the entire village in 2003, T’Ly set up a forest protection and development plan. The whole village was divided into three teams, with each team composed of three groups of 10–12 people. All adult men in the village participate in the forest protection system. Above the three teams is a village forest protection and management board, which constitutes three members, one elected from each of the three teams. The traditional village headman and the state-elected village head function as advisors to the board.



The situation in Hoa Binh is somewhat different. In the four study villages, no forest protection team has been organized and local people take care of their own forest on an individual basis. Village forest protection regulations in each village serve as the framework for forestry activities (Box 8). However, the regulations only cover the duties of villagers to protect forest in accordance with the statutory legal framework and do not properly address forest benefit issues.

#### Box 8: Main Points in Forest Protection Regulations of Noong Luong and Cha Day Villages

- Villagers must follow all state regulations on forest use, protection, and management.
- Recipient households are responsible for taking proper care of their forests. Timber logging and forest clearance for cultivation are not allowed. Fuelwood collection from dead trees is permitted.
- Households who wish to harvest timber from forests must apply for permission from the state-elected village head, the CPC, and the local FPU agent. If permission is granted, a resources tax must be paid.
- Violation of these rules will be punished in the following ways: confiscation of the timber, payment of money based on the value of illegally harvested product, or public reprimand within the village. In cases of more serious violation, offenders will be taken to the CPC for punishment and given a commune-wide public reprimand.

Table 15: Influence of Customary Practices in Forest Management in Study Villages

Issues	Hoa Binh	Dak Lak
Existence of customary practices in forest management before FLA	In all study villages	In all study villages
Role of traditional village headman	In Muong villages (Song and Khanh), traditional village headmen have no different role than any other men.  In Thai villages (Noong Luong and Cha Day), traditional village headmen are asked to give opinions on local forest use and generally have a decisive role in group/village discussions.	In all study villages, traditional village headmen were asked for opinions but were not the ones who made final decisions
Respect of traditional knowledge in forest use and management	Traditional practices are respected by ethnic villagers.  High influence from economic and population growth on the actual use of forest and land resources.	Traditional practices are respected by ethnic villagers but not by migrants  High influence from economic and population growth on the actual use of forest and land resources
Existing local forest governance	Statutory legal framework dominates the local forest governance	Some presence of customary practices in combination with statutory law

## 5.5 Summary

This section provided an in-depth understanding of the implementation of forest tenure at the local level in the eight study villages in Dak Lak and Hoa Binh. The discussion so far indicates that contrasting processes of FLA have been observed in two provinces. While the FLA program in Dak Lak has been able to account for some variations at the local level and has initially provided people with actual rights to the forest, FLA in Hoa Binh has been implemented on an ad hoc basis and has confused local people.

Few households surveyed in the two study provinces have full knowledge of the rights endowed by FLA, and even fewer people have had a chance to realize such rights. Findings indicate that FLA alone has not been able to shape the actual uses of allocated forest. Other factors, such as support from donor projects, market pressures, benefit-sharing arrangements, gaps between statutory regulations and customary practices, and the participation of local people, have influenced the realization of rights endowed by FLA.

Inequitable distribution of forest resources is also found within villages. FLA has generally created two separate groups of actors at the local level: those with legal rights to forest and those without legal rights. Additionally, forest resources are inequitably distributed among the former group. Power relations and access to information have shaped the distribution of forest resources among local forest recipients, particularly in the case of Hoa Binh. Poor and disadvantaged households that have inadequate access to power and information, are often left out. As a result, FLA has had unclear and uneven effects on poverty alleviation in the study villages. In the case of Hoa Binh, the potential for reverse effects from FLA have been observed.

Forest resources and resource-use patterns by local people in both provinces have undergone changes since FLA implementation. The level of change varies across study sites and also in relation to different resources. Timber may have become scarcer in one village forest area but more abundant in others. Similarly, in the same village the availability of one forest product may have decreased since FLA but the availability of others may have increased. Various factors have contributed to such changes, including increased market demands (due to economic growth), migration, traditional customs and practices, illegal logging, and the insufficient sanction of violations. Most importantly, FLA appears to have made positive contributions to these changes, mostly in sites where donor support has continued after FLA implementation.

Actual forest tenure arrangements in the study villages are also influenced by the presence of customary practices. Traditional rules still shape how forest resources are used and managed. Nevertheless, the presence of customary practices varies across sites and the role of traditional rules has declined with pressure from economic growth, the increase of migrants to the area, and the dominant role of state-elected village leadership.

Last but not least, the discussion in this section suggests that, on the whole, people in forest communities have the ability to manage allocated forests. Although some people and communities may have been involved in the rapid deforestation that occurred in Vietnam during the last three decades of the 20<sup>th</sup> century, it appears that traditional forest management systems that worked in the past are once again being put into practice. In some communities, there has been no interruption to these sustainable practices. With timely support from the outside, local communities can protect allocated forests from unauthorized use and benefit from forest management.

# 6

## Variations in the Implementation of Forest Tenure Policies

# 6

## Variations in the Implementation of Forest Tenure Policies

This section discusses research question three, concerning variations in the implementation of forest tenure policies between the two provinces. We focus on two major policies: FLA policies and forest benefit-sharing policies. Based on primary data from the eight study villages and secondary data at the provincial level, we draw a comparison between the two study provinces and relate it to the national policy framework.

### 6.1 Forest Land Allocation Policies

As presented in Sub-Section 5.1, FLA policies appear to have differed significantly between the two provinces. Although national legal documents provide a framework for FLA throughout the country (Box 1), these documents were not referred to during FLA processes in the study villages of Hoa Binh province. Instead, the FLA process in these villages was based on Decree 64/CP (dated 27 September 1993), which concerned the allocation of agriculture land to individual households.

Furthermore, the approaches applied during FLA were not entirely clear. Local households were given not only production forest and bare land for plantation, but also protection forest and natural forest. However, it was not clear to the local people what legal rights they were entitled to, as there was a contradiction between the rights vested in the RBC and the word “contract” written on it (see Sub-Section 5.1.1).

#### Box 9: Policy Ambivalence Regarding the Allocation of Natural Forests

Despite extensive efforts to allocate forest areas to local people, FLA policies of the 1990s were still ambiguous on what to do with natural forests with standing volume. While forestry land without forest cover (i.e. bare land) could be allocated to local households with RBCs, it was unclear whether the same could be done with forestry land with forest cover or whether this land could only be contracted out. According to Article 3 of Decree 02/CP, the allocation of state forestry land with natural or plantation forest to households and individuals must be in accordance with the forest use and management plan approved by the competent state body. Article 12 of the decree, however, reads that forestry land without forest cover is to be allocated with long-term land-use titles, while households receiving land with natural and plantation forest would be bound by contracts. Furthermore, Decree 01/CP added to the ambiguity by emphasizing the allocation of forest land to local users through contracts. With no clear and specific direction given on granting land-use titles for forestry land with forest cover, state policies of the 1990s left much room for interpretation as to whether standing forests could be allocated with titles to local users or should only be contracted out.

FLA in Dak Lak was quite different from Hoa Binh. Prior to the start of forest devolution programs, top country leaders visited the province. During the visit, provincial authorities received a “green light” to test the allocation of natural forest to local people. Between 1998 and 1999, Dak Lak’s FLA program was based on Decree 02/CP on allocation of forest to individual households. This initial phase of FLA also added an experimental element of issuing RBC to natural forests to recipient households and had significant impacts on national FLA policies. Based on empirical evidence from Dak Lak, Decree 163/1999/ND-CP was issued, replacing Decree 02/CP. Consequently, the second phase of forest devolution in Dak Lak (from the year 2000) followed the framework of Decree 163. During this phase, Dak Lak also added an experimental element of allocating forest land to household groups and whole villages that did not exist under Decree 163. In 2005, the Government issued Decision 304/2005/QD-TTg. Since then, the forest devolution program in Dak Lak has also been based on this decision. In general, FLA processes in Dak Lak served as a pioneer in devolving rights to natural forests with timber stock and granting forest land RBCs to local

people. This was quite an advance, as the national policies during the 1990s were ambivalent on what to do with natural forests (Box 9).

## 6.2 Benefit-Sharing Policies

Similar to FLA, the implementation of benefit-sharing policies also varies significantly between provinces (Table 16). At the national level, benefit-sharing arrangements were mentioned briefly in the 1991 Forest Protection and Development Law. However, the legal framework for benefit sharing at the national level only gained focus with the issuance of Decision 178/2001/QĐ-TTg (dated 12 November 2001) on the benefits and obligations of households and individuals with regard to allocated, leased, or contracted forest and forestry land. Therefore, Decision 178 is used in this paper for comparison with actual benefit-sharing arrangements practiced in the two study provinces.

By the time Decision 178 was issued, FLA had already begun in both Dak Lak and Hoa Binh. As a result, benefit-sharing policies vary across provinces, even villages. In Dak Lak, a study was commissioned to Tay Nguyen University (based in Dak Lak) to evaluate the growth of the forest and calculate the timber benefits for forest recipients. The study recommended that forest recipients be entitled to 6% of the after-tax value of the timber per year of protection; this would go on to become official policy. Under this policy, if a household managed the allocated land for 16 years, they would be entitled to 100% of the after-tax value of the extracted timber. In addition, each forest recipient household was entitled to 5 cubic meters of timber every 20 years for housing purposes. Forest recipients were also entitled to all timber benefits from plantations. Besides timber, the collection of NTFPs and the use of limited areas of allocated land for cultivation were also offered as benefits for local people.

**Table 16: Comparison of Policy Versus Actual Material Benefits Gained by Local People From Production Forest**

Benefits	Decision 178	Hoa Binh	Dak Lak
Timber	100% of trees planted by forest owners 100% of timber from poor forest 70–80% of timber from restored forest 2% per protection year of timber from medium to rich forest 10m <sup>3</sup> of timber per HH for house construction	100% of trees planted by the owners  Timber logging possible with permission from competent authorities	100% of trees planted by forest owners  6% of timber per year of protection  5m <sup>3</sup> of timber per HH per 20 years for house construction
NTFPs	Can be collected (except for protected species)	Can be collected (except for protected species)	Can be collected (except for protected species)
Land for cultivation	Allowed on no more than 20% of allocated land without forest cover	No cultivation allowed in allocated forest	Allowed on a limited area of allocated land without forest cover

In reality, however, there are variations between T'Ly and other study villages in Dak Lak. With the support of RDD, T'Ly and another village (not covered by this study) developed a sustainable forest composition plan for their allocated forest,<sup>10</sup> based on the results of forest inventories. With permission from provincial authorities, the plan was then used as the basis for calculating the quantity of timber that the villagers extracted from the forest in 2006 (discussed in Sub-Section 5.2.2). This experimental approach of timber benefit calculation will be reviewed in future and may be used more widely in the province.

<sup>10</sup> Sustainable forest composition plans specify the number of trees needed per diameter range per ha of forest for sustainable growth. Any trees above this number can be extracted.

While there have been improvements in benefit sharing in Dak Lak, little has improved in the study villages in Hoa Binh. Local forest recipients were only allowed to collect NTFPs for their own purposes and harvest timber from their own plantation. Clearing of allocated forest land for cultivation is strictly prohibited and timber extraction from natural forest is only been possible with permission from competent authorities. For protection forest, forest recipients are entitled to VND50,000 per ha per year as reimbursement for their protection work. However, this payment came only for the first three years after FLA. Local people have not received payments since then.

At the village level, local people’s knowledge about the material benefits derived from allocated forest is mostly based on recent forest-use patterns (Table 17). In Hoa Binh province, NTFP benefits appear to be most well known by local people, with 68% of households surveyed stating that they can benefit from NTFPs (including fuelwood) in the allocated forest. In contrast, only 10% of households surveyed said that they can use allocated forest land for cultivation. In Dak Lak, most interviewees were aware of the benefits they could extract from allocated forest resources. Around 83% of households surveyed stated that they can benefit from timber in the allocated natural forest; 73% said they can use allocated forest land for cultivation; and 64% believed that collection of NTFPs is legal for them. However, no households in Dak Lak stated that they can receive cash for protecting allocated forests (compared to 15 households [8%] in Hoa Binh).

**Table 17: Local People’s Knowledge About Material Benefits From Allocated Forests**

Type of Benefits	Hoa Binh	Dak Lak	Total
Timber from plantation	25 (25%)	1 (1%)	26 (14%)
Timber from natural forest	44 (44%)	66 (83%)	110 (61%)
Land for cultivation	10 (10%)	58 (73%)	68 (38%)
NTFPs	68 (68%)	51 (64%)	119 (66%)
Cash for protection	15 (15%)	0 (0%)	15 (8%)

Source: Household surveys.

Note: Numbers in parentheses are percentage over the total number of survey households.

### 6.3 Summary

This section aims to provide an understanding of the variations in the implementation of forest tenure reform policies in Hoa Binh and Dak Lak provinces. It focuses on two major policies: FLA policies and benefit-sharing policies. In terms of FLA policies, there have been diversions from the national legal framework in FLA programs in both provinces. While such diversions have had the potential to contribute to the improvement of FLA policies at the national level, the FLA program in Hoa Binh confused local people, making it harder for them to fully understand their rights and responsibilities. By contrast, a clearer approach, based on the national legal framework and complemented by new components, has made Dak Lak’s FLA program an interesting learning experience.

Variations exist in the implementation of benefit-sharing policies in two provinces. The diversions from the national policy on benefit-sharing can be explained by the fact that FLA processes began in both provinces before the issuance of this policy. However, benefit-sharing arrangements introduced in Dak Lak were based on well-grounded scientific work and have contributed to the preparation of a national benefit-sharing policy. By contrast, little has been done in Hoa Binh province with regards to the sharing of benefits from allocated forest, even after the issuance of Decision 178.

# 7

## Summary of Findings and Recommendations

## 7

## Summary of Findings and Recommendations

This study set out to seek further understanding of forest tenure arrangements and reform in Viet Nam. Using empirical evidence from eight study villages in Dak Lak and Hoa Binh provinces, representing the Central Highland and Northern Upland regions respectively, this paper aims to provide answers to the following three questions:

1. What is the current situation of forest tenure in the study provinces (e.g. who owns what forest and how much)?
2. How are forest tenure arrangements in the study sites implemented and what are the influential factors?
3. What are the variations in forest tenure policy implementation at different sites?

Findings from the study are interesting, in that they indicate that forest tenure reform is not purely a forest management matter. Rather, such reforms encompass cultural, economic, and political aspects of local life.

### 7.1 Summary of Main Findings

The discussion in the paper indicates the following major findings.

#### On current forest tenure situation:

- **Presence of multi-stakeholders in forest management:** Significant progress has been observed in shifting from a centralized state forest management regime to multi-stakeholder forestry. Currently, there are eight major forest tenure groups from both state and non-state sectors in the two study provinces. The increased presence of multi-stakeholders in forest management in both provinces reflects the quick response of the Vietnamese government to adapt to emerging needs in the forestry sector.
- **Dominant role of the state:** Despite significant changes in forest tenure, the state still dominates the management of forest resources. In both provinces, the best-quality forests are still owned by different state actors. Non-state actors, particularly local people, are mostly managing poorer quality forests. Most importantly, the state retains a strong role in deciding the use of forest resources already allocated to local people. Legal permission from appropriate state authorities is still required for timber logging and use of forest land for agriculture.
- **Variations in forest tenure in the two provinces:** There are a number of differences in forest tenure between the two provinces. At the provincial level, the size of forests under different tenure arrangements varies. Most forest land in Hoa Binh province is under the management of individual households. In Dak Lak, however, state actors hold a large share of forest area and local people only a small share; where local people do have forest tenure rights, such land is generally under collective forest management by communities and household groups. Local people in Hoa Binh generally have poorer and smaller forest areas than those in Dak Lak province.

#### On implementation of forest tenure at the local level:

- **Contrasting processes of forest tenure reforms:** Both study provinces have taken different paths in FLA implementation. Hoa Binh's FLA process has been implemented on an ad hoc basis and has confused local people regarding forest rights and responsibilities. In Dak Lak, the FLA program has been able to take into account some variations at the local level and has provided people with actual rights to the forest.



- **Actual rights and uses of allocated forest:** Many people from the study villages in both provinces have been unable to realize the full extent of rights endowed by FLA. For instance, many people are still unaware of their full rights under FLA. FLA alone has been unable to shape the actual uses of allocated forests. Other factors, such as support from donor projects, market pressure, unclear benefit-sharing arrangements, gaps between statutory regulations and customary practices, and the participation of local people, have influenced the realization of FLA-endowed rights. Most importantly, findings from the field survey indicate that FLA has achieved greatest success in areas where external support has been available to local forest recipients after FLA completion.
- **Inequitable distribution of forest resources among local people:** FLA has generally created two separate groups of actors at the local level: local people in possession of legal rights to forest and local people without such rights. However, forest resources are inequitably distributed even among those with forest tenure rights. Power relations and access to information have shaped the distribution of forest resources among local forest recipients, particularly in the case of Hoa Binh. Poor and disadvantaged households, who have inadequate access to power and information, have often been left out.
- **Impacts of forest tenure reforms on poverty alleviation:** Excepting the case of T'Ly village in Dak Lak, where poor households have been given access to community funds for household economic development, FLA processes have had few observable and positive effects on poverty alleviation in the study; indeed there is even a danger that FLA processes might negatively impact poverty alleviation efforts. In Hoa Binh, power relations have resulted in FLA providing the wealthier village households with access to forests. Furthermore, material benefits derived by poor households are often minor in economic value as these stakeholders often lack the resources necessary to derive products of high economic value.
- **Changes in forest resources and marketing of forest products:** The level of change varies across study sites and also with different resources. Timber may have become scarcer in one village but more abundant in others. Similarly, within one village a forest product may have become less available now than it was before FLA, but other products may be more plentiful. Various factors have contributed to such changes in forest resources. In many cases, these factors include increased market demands (due to economic growth), migration, the practice of traditional customs, illegal logging, and the insufficient punishment of violations. FLA appears to have a positive effect on forest resource changes, primarily in sites where donor support has continued after FLA implementation.
- **Customary practices in forest management:** Actual forest tenure arrangements in the study villages are also influenced by the presence of customary practices. Traditional rules still shape how forest resources are used and managed. Nevertheless, the presence of customary practices varies across sites, and the role of traditional rules has declined with pressure from economic growth, the increase of migrants to the area, and the dominant role of state-elected village leadership.
- **Ability of local communities to manage forest land:** Many rural communities have been living near and using surrounding forests for generations and have developed various forest management institutions. Forest tenure reform has allowed such communities a chance to reclaim their local forests. When given timely support, these communities have demonstrated the ability to protect allocated forests from unauthorized uses and benefit from FLA.

#### On variations in the implementation of forest tenure policies:

- **Variations in FLA policies:** FLA programs in both provinces have diverged from the national legal framework guiding FLA implementation. While such diversions have the potential to contribute to the improvement of FLA policies at the national level, the FLA program in Hoa Binh has confused local people,

making it difficult for them to understand their rights and responsibilities. In contrast, a clear approach based on the national legal framework and complemented by new components has made Dak Lak's FLA program an interesting learning experience.

- **Variations in benefit-sharing policy:** The diversions from the national policy on benefit sharing can be explained by the fact that FLA processes began in both provinces before the issuance of this policy. In fact, benefit-sharing arrangements introduced in Dak Lak were based on well-grounded scientific work and have contributed to the preparation of national benefit-sharing policies. By contrast, little has been done in Hoa Binh province with regard to sharing of benefits from allocated forest land, even after the issuance of Decision 178 on benefit sharing.

## 7.2 Recommendations

The empirical findings from the two provinces lead to the following recommendations.

- **Make forest land allocation and the devolution of forest rights more meaningful:** Although local people have been granted forest rights through FLA, control over the forest resources by forest recipients is relatively limited. To make FLA more meaningful, necessary powers regarding decision making on forest resource management and monitoring forest policy implementation must accompany the devolution of forest tenure rights to local people. Existing traditional forest management practices must also be taken into account during FLA processes. If possible, the power to grant logging permits (initially for housing purposes, and then possibly expanded to commercial logging) should be given to communal authorities to avoid an unnecessary administrative burden for local people. Necessary and timely support should also be provided to build up the capacity of local people in handling newly endowed rights and powers in decision making and monitoring.
- **Make forest allocation more pro-poor:** To make FLA more beneficial for poor forest-dependent people, the following measures need to be taken into account. First of all, local people should receive better quality forests through FLA programs, as these populations, and particularly the poor among them, need to receive immediate material benefits from such resources. Secondly, the distribution of forest land among local populations should be more equitable and allow the poor access to better quality forests. Thirdly, an effective mechanism for the equitable distribution of forest benefits that positively discriminates for the poor should be developed and complied with by all stakeholders involved. Fourthly, planning and decision-making processes over forest management issues should be transparent to avoid elite biases. Finally, capacity building (including legal education—see recommendation below) and extension support that positively discriminates for the poor should be provided after FLA is complete to ensure that the poor continue to derive benefits from forests.
- **Evaluate (and remedy) tenure reform nationwide:** Findings from Dak Lak and Hoa Binh indicate that valuable lessons can be learned from tenure reform processes in different parts of the country. An evaluation of reform processes in all provinces with FLA programs should be carried out in order to draw out such lessons learned or practices best avoided. Most importantly, in situations where a need for improvement is identified, timely measures should be taken to remedy the mistakes made so that affected people can properly benefit from tenure reforms. This can be done through participatory action research in which policy and decision makers at different levels are strongly involved in the design of the evaluation and the analyses of the findings, as they are in position to make decisions and remedy previous mistakes. The evaluation process itself should be undertaken by independent teams (i.e. those who were not involved in the respective tenure reform process) but in close consultation with people who were actively engaged in the reform process.

- **Involve local people in combating illegal logging activities:** The active participation of local people is crucial in the prevention and combating of illegal logging. However, people must see the benefit of their participation. It is recommended that involvement of local people in preventing illegal logging must take meaningful devolution of forest as a precondition (see recommendation above). Only when people see that illegal logging has direct influence on their own benefits from the forest can they be actively engaged in stopping it. Additionally, strict enforcement of state laws and village regulations is needed to avoid unauthorized logging by local people themselves. In other words, violators of laws and regulations must receive adequate sanctions to avoid future violations.
- **Respect local customs:** To avoid gaps between state laws and customary practices and to make local people more involved in forest management, it is recommended that local traditions be respected. This can be done in two ways. Firstly, state policies should be flexible to take into account local variations of customs and culture, particularly those of ethnic people who often live in and around the forest areas. Secondly, local state officials should learn to respect local customs. They should understand that scientific forestry is not the only way to manage forests and that local people also possess important knowledge about their environment and forest management.
- **Provide legal education to local people:** It is assumed that when local people are knowledgeable of legal provisions regarding specific real-life issues, they will be able to raise their voices to protect their rights and benefits. One workable way to improve local people's access to legal information is by educating them about necessary provisions in statutory laws for concrete problems. This is a long-term process, which starts with identification of the major problems in natural resource management that people are confronting. Concrete legal provisions for each problem need to be compiled. These legal provisions will then need to be put into simple language that does not compromise content. The next step is to identify specific means of communication such as aural media (radio), visual media (poster, pictures), and verbal media (simplified leaflet). Corresponding communication tools will then be prepared and used for legal education.
- **Pay (more) attention to design of policy implementation:** The lessons from FLA program in the study provinces indicate that without a clear approach, the implementation of state policy may become very confusing. It is recommended that prior to policy implementation, attention should be paid to clearly designing the implementation program, which should include a consistent approach to be undertaken, clear definition of roles and responsibilities of actors involved, and a well defined system for monitoring the implementation. The design should also allow room for the integration of local variations and feedback during the course of implementation.



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# Annex A: List of Provincial Research Team Members

## ***Hoa Binh (VFU) team:***

1. Dr. Nguyen Ba Ngai
2. Ms. Mai Thi Thanh Nhan
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1. Dr. Tran Ngoc Thanh
2. Mr. Nguyen Dang Khoa
3. Ms. Tran Ngoc Dan Thuy

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# Annex B: Exchange Rates of Vietnamese Dong Versus United States Dollar

Year	US\$1	Year	US\$1
2000	VND14,510	2004	VND15,700
2001	VND15,070	2005	VND15,900
2002	VND15,390	2006	VND16,056
2003	VND15,600	2007	VND16,218

Note: The presented rates are the averages selling and buying rates offered by Vietcombank (Viet Nam Bank for Foreign Trade) on the last working day of the respective year. The 2007 exchange rate presented was the rate offered by the bank on 18 September 2007.

Source: [www.vietcombank.com.vn](http://www.vietcombank.com.vn)



## Annex C: Summary of Study Village Data

	Song	Khanh	Cha Day	Noong Luong	Cham B	Tul	T'Ly	Diet
Location	Lac Son, Hoa Binh	Lac Son, Hoa Binh	Mai Chau, Hoa Binh	Mai Chau, Hoa Binh	Krong Bong, Dak Lak	Krong Bong, Dak Lak	Ea Hleo, Dak Lak	Ea Hleo, Dak Lak
Dominant ethnic group	Muong	Muong	Thai	Thai	Ede	Muong	Jarai	Jarai
Number of households	62	70	97	61	67	69	127	74
Number of people	359	235	429	265	367	446	762	393
Number of laborers	140	150	272	165		216	329	134
Size of allocated forest	110	116.4	185.1	206	567.5	1130.7	1127.5	293.5
Form of forest allocation	HH	HH	HH	HH	HH group	Community	Community	Community
Year of allocation	1993-1994	1993-1994	1993-1994	1993-1994	2000	2001	1999 (2003)	1999 (2004)
Households with forest	37	16	78	53	38	69	127	74
Paddy land per head	0.0234 ha	0.0732 ha	0.0241 ha	0.0748 ha	0.0082 ha	0.0448 ha	0.0709 ha	0.0102 ha
Fishpond per head	0.0056 ha	0.1430 ha	0	0	0	0	0	0
Upland field per head	0.0253 ha	0.0387 ha	0.0460 ha	0.0502 ha	0.3597 ha	0.2874 ha	0.1969 ha	0.1349
Poverty rate	30.65%	27.14%	n/a	50.72%	43.28%	52%	42.52%	22.54%
Number of HH surveyed <sup>†</sup>	25 (40%)	25 (36%)	25 (26%)	25 (41%)	20 (30%)	20 (29%)	20 (16%)	20 (27%)

<sup>†</sup> Numbers in parentheses represent the percentage of surveyed households over the total population in the village

Source: Village surveys

## List of Abbreviations

CFM	community forest management
CPC	Communal people's committee
DARD	Department of Agriculture and Rural Development
FLA	forest land allocation
GTZ	German Agency for Technical Cooperation
JVC	joint-venture company
MARD	Ministry of Agriculture and Rural Development
MB-PF	Management board for protection forest
MB-SUF	Management board for special-use forest
NTFP	non-timber forest product
PPC	Provincial people's committee
RBC	Red Book Certificate, also known as land-use certificate
RDDL	Rural Development Project in Dak Lak province
RECOFTC	Regional Community Forestry Training Center for Asia and the Pacific
RRG	Rights and Resources Group
SFE	state forest enterprise
SGP	Small Grants Programme (UNDP)
SGP PTF	Small Grants Programme for Operations to Promote Tropical Forestry (UNDP)
SMRP	Sustainable Management of Resources in the Lower Mekong Basin Project
SOC	state-owned company
UNDP	United Nations Development Programme
US\$	United States dollar (currency)
VFU	Vietnam Forestry University
VND	Vietnamese dong (currency)



## RECOFTC

RECOFTC holds a unique and important place in the world of forestry. It is the only international not-for-profit organization that specializes in capacity building for community forestry and devolved forest management. RECOFTC engages in strategic networks and effective partnerships with governments, nongovernment organizations, civil society, the private sector, local people, and research and educational institutes throughout the Asia-Pacific region and beyond. With over 20 years of international experience and a dynamic approach to capacity building—involving research and analysis, demonstration sites, and training products—RECOFTC delivers innovative solutions *for people and forests*. For more information, visit [www.recoftc.org](http://www.recoftc.org).

## THE RIGHT AND RESOURCES INITIATIVE

The Rights and Resources Initiative is a global coalition to advance forest tenure, policy, and market reforms. RRI is composed of international, regional, and community organizations engaged in conservation, research, and development. The mission of the Rights and Resources Initiative is to promote greater global action on pro-poor forest policy and market reforms to increase household and community ownership, control, and benefits from forests and trees. RRI is coordinated by the Rights and Resources Group, a non-profit organization based in Washington D.C. For more information, visit [www.rightsandresources.org](http://www.rightsandresources.org).