

Balancing rights and roles of local community: The way forward for sustainable management of forest resources

By Luong Quang Hung and Nguyen Quang Tan

Key message

Local communities and state forest actors, such as Protection Forest Management Boards (PFMBs), State Forest Companies (SFCs), play equally important roles in forest resource management. Yet local communities have limited legal rights. This is one reason that leads to a lack of forest ownership for local communities. In order to support local communities to effectively engage in sustainable forest management and livelihood development, a fuller set of rights should be legally given to them.

Introduction

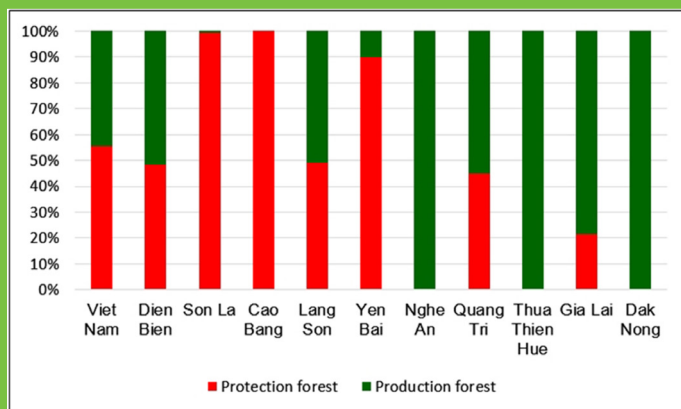
In Viet Nam, community forest management (CFM) has existed for generations and local communities have managed forests using traditional practices. During the period of forest resource nationalisation (1976 and 1990s), traditional community forest management practices did not receive adequate attention. The early 1990s marked the return of attention to CFM with the approval from the Forest Protection and Development Law (FPDL) in 1991 and the Land Law (LL) in 1993, which provided the legal framework for community forest management country-wide. Since, both the LL and the FPDL have been revised, providing further legal conditions for community involvement in forest management. However, after over two decades of renovation, it is still unclear if the legal framework provided by these laws has rendered sufficient incentives on the ground for the effective engagement of local communities in sustainable forest management.

Through experience from Dien Bien, Son La, Phu Tho, Quang Ninh, Thua Thien Hue, Quang Ngai, Binh Dinh, Dak Nong and Dak Lak provinces, this policy brief indicates local communities play as essential a role in forest management as state forest managers do, such as PFMBs, SFCs. Yet, limited use rights, as recognized by current laws, are not strong enough for local communities to manage forests and develop livelihoods sustainably.

Strong roles and outstanding performance

Local communities play an important role in forest management. They, including households, manage around 27% of the total forest area in Viet Nam, including protection forests and production forests. In the CFM Pilot Project Phase 1, protection forest area allocated to local communities is larger than production forest. In some provinces, like Son La, Cao Bang and Yen Bai, the protection forest area allocated to local communities is mostly for conservation purposes (see Figure 1).

Figure 1. Allocated forests to local communities within CFM Project



Local communities not only have important roles in forest management but also are better at forest management in some cases than state forest managers, such as PFMBs and SFCs. For example, local authority acknowledged that forest management by local communities in Bu Nor village in Dak Nong province is more effective than that of the two SFCs that previously managed the forest (Box 1). Recognizing this, Dak Nong Provincial People's Committee (PPC) is reclaiming 853.7 hectares of natural forest that are currently managed by Phu Rieng Rubber Ltd Co. to allocate to Bu Nor villagers. Similar cases of outstanding performance in forest management by local communities are found in T'Ly village of Dak Lak, Thuy Yen Thuong and Pho Trach villages of Thua Thien Hue, and Tham and Lay villages of Son La province.

Box 1. Community forest management in Bu Nor village

In 2001, eight groups comprising 69 M'ngong households in Bu Nor village (Dak Nong province) were allocated 1,016 hectares of forestland. After 12 years, the local government acknowledged that Bu Nor villagers managed forest much better than other forest owners, such as forest state enterprises and private forest companies. Although deforestation still happened (mostly by outsiders) during these 12 years, the deforestation rate was lower than that in the forestland managed by other actors.

Therefore, official document 5591/UBND-NN, dated 26/12/2012, Dak Nong PPC is in the process of allocating another 853.7 hectares of natural forest, currently managed by Phu Rieng Rubber Ltd Co., to Bu Nor villagers.

Weak rights

While local communities play an important role and are outstanding forest managers, their rights to forests are limited. Local communities are recognized as forest users in the 2004 FPDL (Article 30, Item 1), yet they are not recognized forest owners. In the list of forest owners regulated by Article 5 of 2004 FPDL, communities are not listed as legally recognized forest owners.

Consequently, rights to forestland for local communities (as regulated in Article 30, Item 1 of 2004 FPDL) are less than the rights of legally recognized forest owners (as regulated in Articles 59-78 of 2014 FPDL). Local communities are not entitled to transfer, donate, lease, mortgage, provide a guarantee or contribute business capital from the allocated forests.

Local communities also have limited rights in terms of the withdrawal of timber and other non-timber forest products. For protection forests, local people are not allowed to harvest any timber from forestland and are only allowed to harvest a maximum of 30% of standing trees from plantations they have invested in (Clause 3 of Article 15, decision 17/2015/QĐ-TTg). For production forests, local communities are only allowed to harvest timber and other non-timber forest products for public and subsistent purposes, but not for commercial purposes (Clause 5 of Article 39, decision 186/2006/QĐ-TTg).

More importantly, local people manage around 27% of the total forest area in Viet Nam yet have severely limited legal rights to forestland. Of the 25 million people living in over 18 thousand village communities in or around forest areas in Viet Nam, only about 10 thousand communities have legal rights to forests, implying nearly half of local communities do not have legal rights to forestland. At the same time, these local communities are dependent on forest resources in one way or another.

Impacts of regulatory barriers

With insufficient rights, or in many cases no rights at all, local communities face a difficult situation and many communities lose motivation to sustainably manage local forests. This problem is often exasperated when local communities living in or near forest areas are poor and rely on the forest for their livelihoods.

As illustrated in Box 2, providing long-term labor inputs in forests before tangible benefits are harvested requires local people mortgage, lease or contribute business capital from allocated forests. Since rights are missing, local people are not able to mobilize funds to invest in forests and therefore cannot see any economically viable option for maintaining their forest.

Box 2. Loss of motivation in forest management in Phu Loi

Phu Loi village in Dak Nong has 240 households with 1,108 people, who are mainly from the M'Nong ethnic group. Phu Loi was allocated 1,500.5 hectares of natural forest in 2008 (137.9 hectares of bare land, 567.4 hectares of poorly restored forestland and 795.2 hectares of mixed timber-bamboo forestland).

The community faced many difficulties, including no rights to lease, mortgage or contribute business capital from the allocated forests to invest in the 137.9 hectares of bare forestland. Thus, after 7 years of labor invested, the villagers lost motivation and decided to return the allocated forestland to local government in 2015.

This is worsened by legal framework that limits the right to harvest from the forest. Limited rights have altogether undermine communities' motivation and drive communities to decide to return allocated forestland to the government.

Similar findings are found in a recent study by FORLAND. Lack of benefits from forests after allocation led local people in various parts of the country to neglect their forests, even after returning the forestland use certificate to the government. In many cases, local people became 'thieves' in their own forests (see Box 3).

Box 3: Loss of interest in forests

Findings from the recent survey on impacts of forestland allocation indicate local people have expressed frustration, reported neglected forest patrols and even tended to return forest land use titles to the state.

Among the key reasons for this is the absence of benefits for local people. In general, local people do not benefit from forests after allocation while still responsible for management (i.e. forest patrolling). There is no clear mechanism to approve salvage logging so local people have to leave logs rotten in their forest. Simultaneously, commercial logging is not possible due to overlapping policies. More importantly, no shares of the penalties collected from violations were given to local people who contributed the capture of encroachers.

Proper rights and benefits make strong performance

Examples from around the world indicate that when given sufficient rights and power, local people can be strong players in the sustainable management of forest resources for environmental, social and economic benefits. The cases of Bu Nor village in Dak Nong, T'Ly village in Dak Lak, Thuy Yen Thuong and Pho Trach villages in Thua Thien Hue, and Tham and Lay villages in Son La provide important evidence from Viet Nam.

Another example is from Phu My village in Binh Dinh province. In 2009, villagers were allocated 364.2 hectares of natural forestland. Soon after, the community forest management board (CFMB) was set up. Since then, CFMB members have spent endless efforts to curbing illegal logging activities. In February 2011, Phu My village was allowed to harvest 15 m³ of timber in the allocated forest for commercial purposes. This was an important incentive for villagers to engage in forest management.

As a result, the number of violations went down from eight in 2010 to zero in 2011 until today. Because of its excellent performance, the Phu My community forestry model won an award in 2015 from the Minister of Agriculture and Rural Development.

The way forward

The discussion so far indicates local communities play an important role in forest management and they have the potential to protect local forests for environmental, social and economic benefits. Yet, the limited-use rights may be a disincentive for local communities. In order to enable local communities to actively engage in sustainable forest management, three recommendations should be taken into account.

- First, local communities should be recognised as a legal forest owners in the Forest Protection and Development Law. This will allow equal treatment with other forest owners like forest companies and individual households.
- Second, local communities' bundle of rights to forests should be expanded. More specifically, they should be given full withdraw rights like other forest users, including harvesting of forest products for subsistence and commercial purposes if they desire to develop community forest enterprises. Communities should also be given the right to mortgage, lease, and use forest titles as a business contribution.
- Third, where local communities do not have the legal rights to forests (i.e. forest land allocation has not taken place), the government should allocate the forest to local communities. The forests area to be allocated to communities may come from the areas currently under the responsibility of Communal People's Committees (CPC). This will help reduce the burden of CPC as they do not have the resource to take care of the forest, and it will give local communities the opportunity to sustainably enhance forest resources and their own livelihoods.

Currently, the government is in the process of reviewing and revising the 2004 Forest Protection and Development Law. It is recommended that Section 3 of this law be entirely reviewed and revised to give local communities broader rights over forests, especially in Articles 5 and 30. Furthermore, regulation on protection forest management (decision 17/2015/QD-TTg) needs to be revised to give incentives to local people and make community forest management in Viet Nam a sustainable modality.

Reference

- Bao, H., Vo, H., Nguyen, H. T. T., & Nguyen, D. D., 2012. *Assessment of Community Forest Management in the Central highlands period 2000–2012: A case study in Bu Nor Village, Quang Tam commune, Tuy Duc district, Dak Nong province.*
- Enters, T., & Nguyen, T. Q., 2009. *Final Evaluation Report on Community Forest Management Pilot Program 2006-2007.* Ha Noi, Viet Nam: Department of Forestry, Ministry of Agriculture and Rural Development.
- Ho, K. T., 2010. *Evaluation of the implementation of some forest and land allocation programs to on-site ethnic minority communities in Dak Nong province. Paper presented at the People right-based natural forest management., Hue, Viet Nam.*
- Le, L. V., Phan, T. T., Pham, T. N., Ha, A. H., Nguyen, L. X., & Cao, L. T, 2014. *Brief report on key findings of consultation on Forest Protection and Development Law 2004 relating to households and communities.* Ha Noi: FORLAND.
- Wode, B. (2014). *Final Consultant Report- Forest Rehabilitation and Forest Management in Quang Nam, Quang Ngai, Binh Dinh and Phu Yen.* Ha Noi, Viet Nam: GFA consulting group.

RECOFTC's mission is to enhance capacities for stronger rights, improved governance and fairer benefits for local people in sustainable forested landscapes in the Asia and the Pacific region.

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 development for community forestry. RECOFTC engages in strategic networks and effective partnerships with governments, nongovernmental organizations, civil society, the private sector, local people and research and educational institutes throughout the Asia-Pacific region and beyond. With over 25 years of international experience and a dynamic approach to capacity development – involving research and analysis, demonstration sites and training products – RECOFTC delivers innovative solutions for people and forests.

For more information, see *Community forestry in Asia and the Pacific: Pathway to inclusive development* report available at www.recoftc.org.

Copyright © 2016 RECOFTC - The Center for People and Forests

RECOFTC – The Center for People and Forests

Headquarter Office:

P.O. Box 1111
Kasetsart Post Office
Bangkok 10903, Thailand
Tel (66-2) 940-5700
Fax (66-2) 561-4880
info@recoftc.org
www.recoftc.org

RECOFTC – The Center for People and Forests

Office in Viet Nam:

3rd floor, No 2, Tran Huy Lieu street
Ba Dinh, Ha Noi, Viet Nam
Tel: (+84) 4.3726 4745
Fax: (+84) 4.3726 4746
vietnam@recoftc.org
www.recoftc.org/country/vietnam