

DOES DEVOLUTION REALLY INFLUENCE LOCAL FOREST INSTITUTIONS? TWO CASE STUDIES IN THE CENTRAL HIGHLANDS OF VIETNAM

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INTRODUCTION

In recent years, Dak Lak province has experienced a difficult period of forest degradation. Forest degradation has created adverse impacts on the environment and the livelihoods of the local inhabitants. The results of two most recent forest inventories show that the provincial forest resources have annually lost 23,000 hectares during the last five years. It is estimated that around 2% of the provincial natural forest area is destroyed every year (Tran, 2000). To reduce deforestation, participation of local people in forest management has emerged as a viable option in many countries of the world. The transfer of resource rights and management functions from state agencies to local users has been seen as a strategy for better protection and sustainable use of forest resources. Yet, the success of these policies depends upon the local capacity for collective action and factors that encourage or inhibit collective action are insufficiently understood (Rasmussen and Meinzen-Dick, 1995).

In 1999, following the suggestion of central government leaders, the authorities of Dak Lak province initiated a program of devolving authority over natural forest to local people or forest allocation as it is called in Vietnam. Up to date, 14 initial trial villages have received legal titles to forests in their vicinity, including 6,739 ha of natural forest (Phan, 2001). Devolution of natural forest resources to local users is a radical departure from previous government policy in Vietnam, which reserved control over forests to the state. The major objective of FLA is twofold. First, handing authorities and responsibilities of forest resources management over to local villagers, the state expected that local villagers

will be able to obtain additional benefits generated by forest management activities and forest resources. Second, involving local people in forest management, it is presumed that forest dependent communities will be better forest protectors, replacing state forest enterprises and management boards.

This paper examines the changes in local forest institutions that have occurred after forest allocation in two villages of Dak Lak. The study suggests that devolution has modified local forest institutions, though to a much lesser degree than expected. Local people have been eager to claim legal titles to local forests, yet they face significant problems to translate legal rights into rights-in-practice. Above all, local people need support in the enforcement of their rights against encroachment by outsiders. In addition, gaps between forest management regulations and local forest institutions continue to exist, creating possibilities for conflicts within villages and between villages and the state. The paper thus suggest that devolution opens up opportunities for local people to improve their access to and control over forests, but that on time legal interventions are not sufficient to create supportive local forest institutions.

The paper is divided into 4 sections. Section 1 provides basic information about the 2 study villages. Section 2 describes and compares the changes in local institutions, reviewing property rights embedded in local community rules, property rights in-practice, and changes in governance structures. Section 3 gives a detailed account of problems that local villagers face in translating legal rights into rights in-practice. The paper ends with conclusions and policy recommendations.

1 BASIC INFORMATION ABOUT THE STUDIED VILLAGES

Two villages with different characteristics were selected with the purpose to understand the different effects of devolution on local people, and local people's different reactions to policy intervention.

Cham B village, located in Cu Dram commune – Krong Bong district, was selected as an example of a remote access village with abundant forest resources and fertile soil. Its habitants are Ede, who established the village in 1987 by separation from Cham A village (the original village) under a state re-settlement program. The current population is 42 households with 278 persons. Up to today the local people of Cham A and Cham B maintain close ties and kinship relations. The villagers of Cham B received the forest in group. Household cultivate 3 hectares on average.

Diet village, is an example for villages with easy access. Its villagers are Ja Rai including 337 people in 57 households. The village was founded in 1973 under a settlement program by the old Saigon government. Recently, the village forest resources have become under pressure by illegal logging timber logging for pepper poles. Migration can be seen as other source of pressure. Forest resources and soil are poor. Cultivable land per household is only 1.5 hectares on average. Local villagers participated in FLA as individual households. The FLA program allocated to only 30% of the village's population.

Forest resources developed differently in the two villages after devolution.

- In Cham B, the allocated forest declined after devolution, 71.1 hectares of forest (18.8%) has been converted into shifting cultivation land by villagers from Cham A and Cham B. 29 out of 42 households in the village (69%) have at least one upland field in the allocated forest areas.

- In Buon Diet village, the area of allocated forest areas has increased a little. Forest has regenerated on 21.1 hectares of previous non-forest land (7.5%). Forest has been lost to shifting cultivation fields on 7.3 ha previous non-forest lands (2.6%). Deforestation has not taken the form of a reduction in forest cover but a considerable loss of timber volume. Since FLA was completed, it is estimated that 1,268 trees (5% of timber volume) has been cut, mainly by illegal loggers. 34 out of 53 households (64%) in the village have collected trees for developing pepper plantation.

2 LOCAL FOREST INSTITUTIONS

Local forest institutions are understood as property rights and governance structures in forest resource management. The term "institution" refers to generally agreed upon and enforced prescriptions that require, forbid, or permit specific action for more than a single individual (Ostrom, 1990). The institutions can be *de facto* and *de jure* rules. Consequently they can originate from government laws (in this case they would be called *de jure* rules) or from local community (*de facto* rules) to regulate operations related to forest resources. The distinction between *de jure* and *de facto* is important to understand the relations between ethnic minority groups in the central highlands and forest land tenure relations. For example, the government has the law for forest protection and development, which is applied in the whole country. But each community has their own local rules according to different ethnic traditions.

De facto and *de jure* rules co-exist in the study villages. Beside the state regulations, the ethnic minority people in the study area have their own local rules, also called village regulations. These rules shape day-to-day activities of community members in relation to forests even if these rules have not been recognized by the state. The local rules may complement or conflict with the state regulations

and laws. Their roles is very important in the lives of local villagers in the Central Highlands. Local rules can be seen as crucial instruments for self-governance of forest resources in the villages while in contrast, the effect of state statutory law is still very limited in the ethnic minority areas (Do, 2002). Experiences with FLA has show that, the communities apply both the state rules and the local rules.

The other terms “rights” and “duties” are used in this paper to refer to social relations between actors concerning forest resources. To

focus our discussion, we concentrate our presentation on the rights as institutions. Rights refer to enforceable claims that authorize someone to undertake a particular action. When one has a right it also implies that someone else has a corresponding duty (Schlager and Ostrom, 1992). As simple way to describe property rights, this paper uses the classification developed by Schlager and Ostrom (1992) and modifies it a little to suit the local conditions in the study villages as presented below:

Access	The right to enter a defined physical property (e.g., the right to enter allocated forest, or to walk on a piece of forestland)
Withdrawal	The right to obtain the products of forest (e.g., the right to cut a tree, the right to collect NTFPs)
Management	The right to transform the resource by making improvements (e.g., right to convert allocated forestland into shifting cultivation land, right to plant trees in forest, right to enrich forest)
Exclusion	The right to determine who will have an access right, who is allowed to cut trees (e.g., right to stop violators from cutting trees without permission)
Alienation	The right to sell or lease the above rights (e.g., right to sell forest products, right to use forestland certificate as mortgage)

Source: Schlager and Ostrom (1992)

The enforceability of rights is also an important matter in devolution. Property rights or forest tenure are seen as an enforceable claim to some use or benefit from forests. A claim on forest needs to be enforceable to be considered tenure right (Bromley, 1992). Enforcement plays a significant role to enforce the rights, without enforcement, property rights have limited meaning. The potential ability to enforce rights may come from the state or from community. Enforceability can be understood as the capacity to request people’s respect of the rules and to penalize those who break rules.

Governance structures are understood in this paper as a system of rules plus the instruments that serve to enforce the rules (Furubotn and Rudolf, 2000). They are an important component of local forest management systems. In this

paper, we will focus our attention on changes in the roles of key actors in local governance structure after devolution. There are 4 key actors, who oversee compliance with rules in the study villages. The traditional village headmen and clan chiefs as representatives of the local communities and the official village headmen and members of the commune people committee as representative of the government.

3 CHANGES IN LOCAL INSTITUTIONS AFTER FOREST LAND ALLOCATION

3.1 Legal rights before and after devolution

Before forest land allocation, forest resources have been declared as common property belonged to the whole people under integrated management of the state. The task of

managing these valuable resources was mainly assigned to state agencies, namely state forest enterprises (SFEs) and state forest management boards (SFMBs). The state-based management system excluding participation of local people lead to a rapid decline of forest resources, however, The Dak Lak authorities reacted to deforestation by pioneering a new form of allocating natural forest resources (forested areas) to ethnic minority people. This was different from the practice in other province, where local authorities allocate bare land only to local people. In Dak Lak, forest recipients are granted land use right certificates for a period of 50 years, which can be extended for another 50 ears. Right holders have 5 rights as regulated by the Land Law. In addition, forest recipients

have permission to convert 5-10% of allocated forestland into agricultural land for producing food or generating cash income. Moreover, households who need timber for housing can get permit to harvest 10m³ within a cycle of 20 years.

3.2 Change in local institutions induced by devolution

Devolving authority and responsibility in forest management over to local users can be seen as a process of empowerment. The change in property can also be understood as a form of changes in institutional change. Devolution has caused changes in local forest institutions (table1).

Table 1: Changes in property rights as regulated by the local rules

Rights	Before devolution			After devolution			
	A	B	C	Non-recipients	Recipients (A)	B	C
Right of access	right	right	right	right	right	right	right
Right of withdrawal	right	right	right	no right	right	no right	no right
Right of management	right	right	no right	no right	right	no right	no right
Right of exclusion	right	right	no right	no right	right	no right	no right
Right of alienation	right	right	right	right	right	right	right

Note: A = inhabitant of study village; B = ethnic minority people from neighboring villages; C = migrants;
Source: Interviews by the author

Table 1 shows that the rights of access and alienation did not change after FLA. Similarly, they are not different among key actors. People living in the region can walk through forests and determine the perusal of forest products (e.g. decide whether timber will be used by family or sold in the market). People are more concerned about the rights of withdrawal, management, and exclusion. For that reason, our discussions will pay more attention into these rights.

Before FLA, inhabitants of the study villages had rights to withdraw products from and manage the forest falling within their territory (forests being communal property). Ethnic minority people from other villages also

had similar rights like the people in the surveyed villages. In contrast, migrants could access forests and cut timber for housing but local rules did not grant them the rights of exclusion and management. The ethnic minority also evaluated trees and land in different terms. In their view, trees are renewable resources, while land is non-renewable resources. This explained their willingness to share the timber resources with the migrants, which implied a radical innovation in comparison with local traditions. It is not uncommon for remote communities until today to strictly maintain the traditional rules that forbid outsiders to collect timber in the village territory.

After FLA, the rights of management, withdrawal, and exclusion held by the inhabitants of the study villages have changed. Only the forest recipients, the new type of actor introduced by FLA, maintain the rights previously enjoyed by village inhabitants. Indigenous minority people from neighboring

villages (non-recipients) have lost rights of withdrawal, and management. The forest recipients hold the right of exclusion on the allocated forests, only the forest recipients and not all villagers. Migrants find themselves in the same situation as ethnic minority people from neighboring villages.

Table 2: Changes in property rights enacted by the government

Rights	Before devolution			After devolution			
	A	B	C	Non-recipients	Recipients(A)	B	C
Right of access	right	right	right	right	right	right	right
Right of withdrawal	no right	no right	no right	no right	right	no right	no right
Right of management	no right	no right	no right	no right	right	no right	no right
Right of exclusion	no right	no right	no right	no right	right	no right	no right
Right of alienation	no right	no right	no right	no right	right	no right	no right

Note: A = inhabitants of study village; B = ethnic minority people from neighboring villages; C=migrants;
Source: Interviews by the author

The official forest regulations portray a different picture of local forest institutions from the local rules. According to the forestry regulations the local villagers and migrants have only the right of access. Any activity modifying forest resources must be approved by the government. State forest protection organizations and state forest enterprises are representatives of the state in the locality having the duty to oversee and perform forest management tasks. The state provides annual budget for these works according to a financial plan. The state bodies find themselves unable to perform their duty effectively, however, due to lack of staff, insufficient budgets and unsuitable management system.

In sum, devolution has endowed the local forest recipients with the rights specified by the government. The rights of other ethnic minority people and migrants have not changed. Nevertheless, FLA has created new types of actors, the so-called forest recipients and non recipients.

3.3 Changes in forest clearing and tree cutting

Local villagers react to forest devolution in different ways. Before FLA, villagers cleared upland areas and extracted tress, although the government did not permit them do. All actors, including inhabitants of the study villages, ethnic minority people from other village, and migrants harvested trees and converted forests to upland fields.

After FLA, local villagers continue to harvest trees and convert forests into shifting cultivation land. 69% of households in Cham B have cleared allocated forest for upland fields and 64% of households in Buon Diet have cut trees in allocated forest for use as pepper poles. The migrant have reacted through a different strategy focusing their efforts on illegal timber cutting. Table 3 provides an overview of local people’s use of allocated forests before and after FLA.

Table 3: Cutting trees and clearing forests in practice

Action	Before devolution			After devolution			
	A	B	C	Non-recipients	Recipients	B	C
Walk into forest	yes	yes	yes	yes	yes	yes	yes
Harvest timber	yes	yes	yes	yes	yes	yes	yes
Clear forest for uplands	yes	yes	yes	yes	yes	yes	yes
Stop other villagers	no	no	no	no	no	no	no
Selling forest products	yes	yes	yes	yes	yes	yes	yes

Note: A = inhabitants of study village; B = ethnic minority people of neighboring villages; C = migrants.

Sources: Observations and interviews by the author

3.4 Change in governance structure

In this section, we explore the changes in the roles and duties of key actors in forest management under devolution. Attention to the

roles of key actors help to understand if and how local institutions remain relevance or lose in significance.

Table 4: Changes in roles of key actors

		N	Mean score	
Before devolution	Traditional village headman	7	11.8	Significant = 0.205
	State village headman	7	11.8	
	Chief of clan	7	6.8	
	Commune People's Committee	7	11.7	
After devolution	Traditional village headman	7	8.0	Significant = 0.004
	State village headman	7	13.1	
	Chief of clan	7	5.0	
	Commune People's Committee	7	17.0	

Note: The mean score summarize the evaluation of each actor's significance elicited from local villagers. The ANOVA analysis provides two values. The first value before FLA is larger than 0.050 indicating that the difference in roles is significant. The value FLA is smaller than 0.05 suggesting that the difference in key actors' roles is significant.

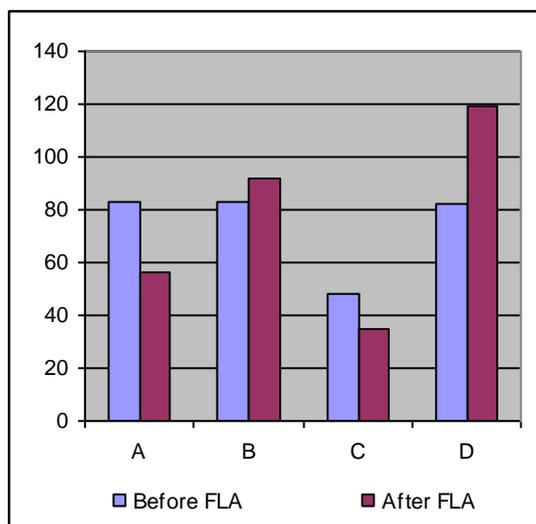
Source: Field work by the author

Table 4 shows that state village headman and Commune People's Committee are more highly appreciated by the local users after FLA. The average scores of traditional village headman and chief of clan decline after FLA. The only major role played by chief of clan is in conflict resolutions. The traditional village headmen

maintain important roles in identifying village boundaries, resolving conflicts and providing information about forest and land use history (for more details see). The traditional village headmen, therefore, continue to be irreplaceable as sources of information about the communities' history. However, the Commune

People’s Committee has become the most important actor in the locality, as evaluated by the villagers. For almost activities related to forest resources, villagers have to seek permission advice, and assistance from the Commune People Committee.

Figure 1: Roles of key actors before and after devolution



Note: A = Traditional village headmen; B = State village headmen
 C = Chief of clan; D = People’s Committee
 Source: Field work by the author.

Comparing the roles of the two types of village headmen, the traditional village headmen enjoyed the same significance as the state village headmen, before FLA. After FLA, however, local villagers value the state village headmen more highly than the traditional village headman. Thus, the changes in roles of key actors indicate significant in governance structure.

Table 5: Changes in the roles of key actors as evaluated by villagers (*)

Activities	Before devolution					After devolution				
	A	B	C	D	Score	A	B	C	D	Score
Identify village boundaries	15	14	6	7	42	10	13	2	13	38
Issue permission	7	6	2	13	28	1	12	0	22	35
Control forest use	7	7	3	12	29	2	10	0	21	33
Penalize violations	9	10	3	13	35	4	11	1	22	38
Resolving conflicts	22	22	19	17	80	21	22	19	14	76
Developing regulations	10	12	6	13	41	7	12	4	17	40
Provide information	13	12	9	7	41	11	12	9	10	42
Total score for each actors	83	83	48	82	296	56	92	35	119	302

A = traditional village headman; B = state village headman; C = chief of clan; D = Commune People’s Committee

Sources: Field research by the author

(*) Using the method of pebble scoring, villagers were requested to evaluate the importance for each actor according to 7 major activities. A high score means very important and a low score means less important.

3. PROBLEMS OF TRANSLATING LEGAL RIGHTS INTO RIGHTS IN-PRACTICE

In this part, we explore problems local people encounter when translating legal rights into rights in-practice. This helps us to understand better whether or not devolution leads to forests being protected better.

First, at the onset of the program, the government presumed that FLA policies will be supplemented by local rules when property rights are handed to local users. The expectation was that forest recipients would play the role of forest guards against illegal encroachment on allocated forest. In practice, this has turned out to be a difficult task because the local rules did not support the state rules.

Second, there is no an enabling environment for the enforcement of rights, which is a necessary precondition for any new forest tenure system. In Buon Diet village, migrants cut trees through they have not participated in allocation. The forest recipients cannot exclude the migrants, however, as there is no legal enforcement structure back up the rights and because the local authorities remain inactive. This experience illustrates that enforcement plays an important role in forest tenure security yet it does not arise automatically from the certificates. The Commune People's Committee and local forest ranger do not have enough resources to provide effective enforce of the rights.

Table 6: Number of conflicts before and after FLA

Types of conflicts		Before FLA	After FLA
Conflicts over timber logging area	Mean	1.00	2.50
	N	8	20
Conflicts over upland field	Mean	2.13	1.88
	N	17	15
Conflicts over procedure for logging and upland filed	Mean	0.88	2.38
	N	7	19
Total	Mean	1.33	2.38
	N	32	54

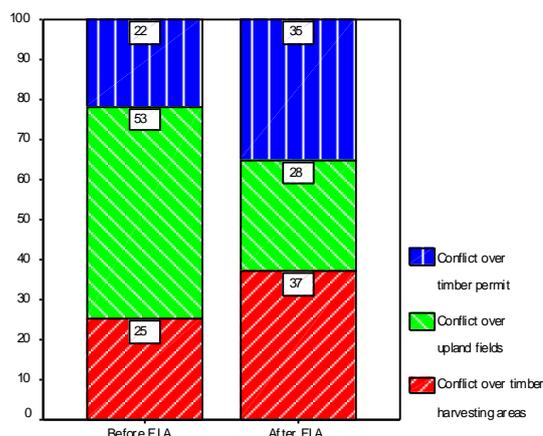
Source: Field survey

Third, conflicts within villages and between villages and the state continue to exist. The conflicts indicate that forest tenure may not be as secure as desirable. Conflicts over timber logging and upland field expansion are those of highest concern local people (see Table 6).

As for types of conflict, conflicts over

upland field appropriation were major issue in the pre-FLA period. After FLA, conflicts over upland fields, conflicts over timber logging and conflicts with forestry offices over permit are all significant. Lack of clear guidance for local villagers on permissible timber harvest is a major source of the conflicts.

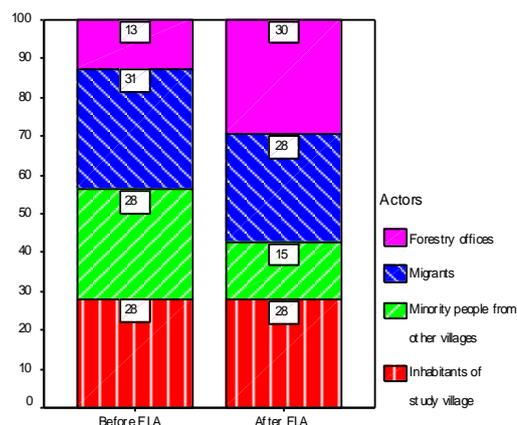
Figure 2: Compare types of conflicts and actors before and after FLA



Source: field research

One of the most important incentives for the local users to participate in FLA is the opportunity to get access to cultivable land and timber for housing. Yet, unequal selection of recipients and the complexity of forest regulation have disappointed most local people. Only 20% of communities' population has received the opportunity to participate in FLA, many of them being rich and rather well-off families. The complicated procedures for getting permits and the lack of determination shown by local forest rangers when dealing with illegal loggers have caused many local villagers to lose the trust into the state forestry policies.

As for the actors involved in conflicts, Figure 2 shows that the incidence of conflicts between villagers has not changed. Conflicts between villagers and forest official have increased. Another source of conflict is the unequal distribution of allocated forest between households including a state official and those without an official. Household including a state official have claim larger upland field and harvested more timber than common households. More generally, forest recipients have received privileges not shared by everybody in the village. The differences in



Source: filed research

forest holding, therefore, fuel persistent conflicts among villagers.

4. CONCLUSIONS AND POLICY RECOMMENDATIONS

The FLA program in Dak Lak provinces devolves authority and responsibility over forest management to local villagers and should therefore be seen as an innovative policy of the local authorities. The program has created opportunities for local forest-dependent communities to gain control over forest and derive benefits from them. Endowing local villagers with property rights on forest resources has increased their confidence that they will reap the future benefits. Therefore, they have incentives to manage allocated forest resources in effective manner. However, our results from the two study villages also demonstrate that FLA still has to overcome many problems. The slightly disillusioning results should not to disappoint the FLA initiators but should help them fill the gaps and improve FLA. Devolution program have not always been successful in achieving all of the objectives. To be more successful, we recommend attention to the following issues in particular:

First, almost all ethnic minority communities the Central Highlands have their own rules or village regulations. These rules are still valid and continue to exert strong influences on forest management and use in the communities. FLA, therefore, should build on the positive aspects of the local rules to reduce the gaps between legal- and local rules.

Second, FLA is based on the assumption that the forest recipients will take on the roles formerly assigned to state forest enterprise and forest management boards. They will only happen, however, if people develop mechanisms for collective action to regulate forest management, monitor forest use, and sanction violators. Without such mechanism, legal property rights may not be much force in practice causing the results of FLA call short of expectation. Villagers need to receive adequate support in these tasks. The commune authorities should be strengthened to supports the forest recipients in the enforcement of their newly received rights.

Third, persisting conflicts in the communities should be reduced as much as possible because the conflicts may tend to harm the security of forest tenure. Conflict resolution is a challenging task. Conflicts over forest tenure do not only originate from the gap between state policies and local rules, but they are also generated by un-equal distributions of forest plot and intransparent selection of FLA participants. Conflicts also arise from misunderstandings about FLA policies due to lack of participation. Therefore, local villagers should participate actively in decisions about the form of allocation, division of forest plots, and selection of participants.

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