

## **Forest and Forest Land Allocation in Vietnam: Some Open Questions**

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Forest land allocation in Vietnam, which means devolution of forest use rights from the central state to other users such as forest management boards or natural reserves, forest companies and business entities, or communities, households and individuals, was first implemented in 1993. The main rationale of the Government of Vietnam to transfer forest use rights was twofold: (i) to diminish deforestation, and (ii) to improve the livelihood of forest-dependent people, including ethnic minority groups. In fact, these two objectives of transference of rights went together with the devolution of responsibilities of State Forest Enterprises (SFE), which were historically in charge of forest management and conservation.

The Land Law was the most important law that guided forest land allocation, which was regularly updated since 1993. However, it was not until after the Decision 187, issued in 1999, that forest land allocation was implemented on a large scale. This Decision directed SFEs to give forest lands back to the districts, so that they could be further allocated to households. With the passing of decree 163 in the same year, individuals and households could get a Red Book (referring to the red cover of the certificate) for the forest land allocated to them, which is a land use right certificate that is valid for a period of 50 years. Since 2004 (Decree 181), communities and overseas Vietnamese gained the same land use rights as individuals and households.



When the government started with the allocation of forest land, only barren land and plantations could be allocated to households and individuals. However, recent policy changes have enabled the allocation of special use forest (if this is less than 1000 ha), and natural protection forest as well. The reason for expanding the types of forests that can be allocated to local people is not only the improvement of local livelihoods. It is also the improvement of the protection of natural forests, including controlling illegal logging. However, failure of protection can lead to the withdrawal of the obtained rights, as is stated in Decision 106 in accordance to the Law on Forest Protection and Development (MARD, 2006).

The exact rights that people receive with a land use right certificate (Red Book) depend on the type of forest that is allocated. Regardless of the type of forest, the state remains the owner of the land; local people thus get long term rights to manage and use forest and forest land. However, when people get barren land or plantation forest, categorized as production forest, people get more management and use rights than when they receive natural forest. For example, when people receive forest land for plantations, people can plant and harvest trees. When natural forest is allocated, people are only allowed to harvest a very limited number of trees, depending on the quality and protection function of the forest. Furthermore, for plantation forest, people have the right to transfer, exchange, rent, inherit or mortgage the land. When natural forest is allocated to entire communities on the other hand, people are not allowed to transfer, exchange, lease, rent or mortgage their land.

By the end of 2007, only 62 percent (or about 8 million ha) of the total forest land was allocated (MARD, 2007). One of the reasons mentioned by several assessments for the slow progress in forest land allocation, is the slow re-division of roles and responsibilities between former SFEs and Districts. In addition, provincial agencies that are responsible for forest land allocation often lack financial resources for allocation. Furthermore, it is argued that people are not always interested in receiving degraded or barren forest lands that are planned for allocation, as they especially come with strict responsibilities for forest protection and/or reforestation and low direct benefits. People rather like to receive good forest land for plantation, or rich natural production forest, which provides more options for getting income from the production of timber. The responsibility to protect natural forests thus seems to conflict with the objective of improving local livelihoods.

Issues affecting the allocation of forest and forest land have also been summarized in the National Forest Strategy 2006-2020, which anticipates that all forest land should be allocated by 2010. They include *inter-alia*: lack of income generating options for poor natural forest allocated to people<sup>1</sup>; low productivity of allocated forest land; low competitiveness of timber compared to agricultural crops; lack of integration of local people into markets for forest products; unfeasible benefit-sharing policies, not clearly defined nor explained forest land management policies and low efficiency of provincial forestry extension services in supporting forest land allocation processes.

Another major problem is currently hampering current forest land allocation policies. As a result of the Vietnam reforestation policy, uplands that have previously been used for swidden cultivation, have been classified as forest land. Consequently, upland people can only get Red Books when they actually plant trees on the land. Providing Red Books thus is used as a means to trigger reforestation on land that was already used by people before without official ownership rights. This further explains the lack of participation of upland communities, notably ethnic minorities of Central Vietnam, in government land allocation programs (Program 327 and 661).

#### *Ethnic Minorities and Forest Land Allocation*

*Ethnic minorities are very much more dependent on forestry land than Kinh people. With the exception of the Khmer and the Cham, who are settled in the Mekong Delta and the South East coast, ethnic minorities populate the more mountainous and forested areas of Vietnam. Despite this dependence on forestry land, only twenty-four percent of ethnic minorities report having forestry land. This is particularly true in the Central Highlands, the region with the largest amount of forest land of the country, where very few people (Kinh and non-Kinh) actually have forest land as most of this land has not yet been allocated to households.*

*Recently there have been a number of studies that review the linkages between forestry and poverty reduction and livelihood improvement in Vietnam, including a study by the Vietnam Forestry University completed in 2006 and another by the World Bank in 2005. They conclude that many local people, mainly ethnic minorities, do not have opportunities to access forest resources even in areas where there are few other livelihood opportunities and that poverty and livelihood improvement are still rarely mentioned in forestry plans; and*

*Not surprisingly, local people, notably ethnic minorities, often complain that they do neither understand forest policies nor do they know the exact forestland boundaries. They also highlight that forest land allocation policies create land conflicts in some places, notably conflicts with traditional cultural practices, create gender inequity in land utilization, contribute to social differentiation and limit poor people access to natural resources. As a result, they generally do not participate in the development of local commune forest and forest land allocation plans. While there is now a general acceptance that planning should be participatory (in accordance to the CFM guidelines and regulations), fundamental questions regarding the rights to forest products are still disputed. Local forest-dependent people have limited rights to use forest resources, especially those living in protection and special use forest areas.*



<sup>1</sup> Ethnic minority people were first allocated forests for protection

Notwithstanding issues affecting the efficiency and effectiveness of forest and forest land allocation policies, Vietnam is at a cross-road at the time market-based mechanisms for forest conservation, such as REDD, are attracting an increasing and vibrant interest in international Climate Change negotiations giving the challenge of negotiating a post-2012 Kyoto Agreement. But whether REDD would benefit – or marginalize – forest communities ultimately depends on local tenure rights and arrangements about the allocation of benefits within countries. So, for the Government of Vietnam, strengthening forests and forest land allocation, as well as forest land use rights are key for a number of reasons: unclear or insecure tenure may itself promote deforestation; resource users may have little incentive to protect the resource if they feel they have no stake in it; in addition, tenure may influence the distribution of risks, costs and benefits of financial transfers linked to forest conservation. More secure tenure is therefore likely to give local people and communities greater leverage in accessing financial transfers.

As a result, the current forest and forest land allocation inefficiencies should be urgently addressed by the Government of Vietnam. Moreover, in the uplands, forests are not well managed and the livelihoods of forest-dependant communities have not improved as the motivation for sustainable forestry development has not yet improved. Concerned questions include:

- How to improve the efficiency and effectiveness of forest and forest land allocation policies, notably in uplands inhabited by ethnic minorities?
- In what ways can forest and forest land policies contribute forest conservation and forest land management?
- How can forest and forest land allocation policies improve the livelihoods of forest-dependant communities, notably ethnic minorities, and at the same time sustainably protect and conserve forests and develop value-added forestry activities?



Those are vital questions that need urgent response. One solution may well be to consider the conclusions of the World Bank Country Social Analysis (2009), which recommends to allow provincial and district administrations to set up more flexible regulations in providing land use certificates to minorities. Of course, this increased flexibility needs to be supplemented with more aggressive allocation of land to communities themselves, as is already allowed under the 2004 Forest Law.

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