

Implications and ways forward

- Tenure re-arrangement. Both centralized and devolved forest tenure systems have drawbacks to, or are less compatible with REDD+, but may not necessarily impede its development. Except for special use forests, removing the bottlenecks around the management of forests by SFEs and FMBs is possible by re-arranging the current tenure structure. Co-management with SFEs or FMBs is desirable to local communities, and will likely reduce power asymmetries as well as improve fairness and efficiency of REDD+ BDS.
- Disaggregating land and forest tenure allocation. Allocation of forest land is time-consuming and requires larger funding compared to allocating forests alone. Separating the two would speed up the tenure allocation process, and will be favorable to REDD+ initiatives.
- Tenure over un-allocated forests. Un-allocated forests currently under management of the CPC can be allocated to local communities. Such tenure allocation can be structured as a conditional REDD+ incentive, this will maximize REDD+ benefit to forest dwellers.
- Clarity of rights over tenured forests. Overlaps and gaps in current national forest policy frameworks can potentially undermine the long-term sustainability of REDD+—these must be resolved through legal and policy reforms.
- Clarity of the role of customary laws in forest management. This has a potential in bringing a better management of forest, a clearer responsibility of local communities, and an consolidated community's institutional structure.

References

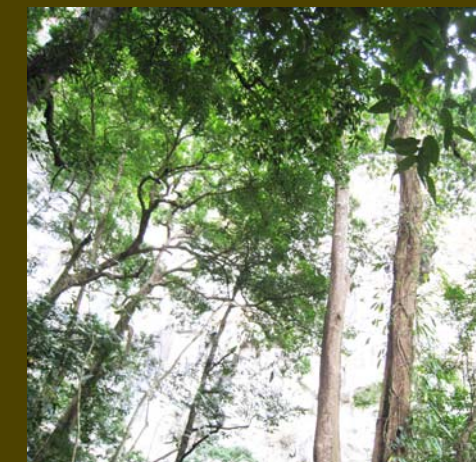
- Dahal, G.R., J. Atkinson, and J. Bampton. 2011. Forest Tenure in Asia: Status and Trends. EU FLEGT Facility, Kuala Lumpur, Malaysia.
- Westholm, L., Biddulph, R., Hellmark, I., and Ekblom, A. 2011. REDD+ and Tenure: A Review of the Latest Developments in Research, Implementation and Debate. Focali Report 2011:02, Gothenburg. Sweden.
- Nguyen, Q.T., Nguyen, V.C., and Vu, T.H. 2008. Statutory and Customary Forest Rights and their Governance Implications: The Case of Viet Nam. IUCN, Hanoi, Vietnam.
- Nguyen, Q.T., Nguyen, B.N., Tran N.T., Sunderlin, W., and Yasmi, Y. 2008. Forest Tenure Reform in Viet Nam: Case Studies From the Northern Upland and Central Highlands Regions. RECOFTC & RRI
- Robinson, B.E., Holland, M.B., Naughton-Treves, L. 2011. Does secure land tenure save forests? A review of the relationship between land tenure and tropical deforestation. CCAFS Working Paper no. 7. CGIAR Research Program on Climate Change, Agriculture and Food Security (CCAFS). Copenhagen, Denmark. Available online at: www.ccafs.cgiar.org
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WILL CURRENT FOREST LAND TENURE IMPEDE REDD+ EFFORTS IN VIETNAM?

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Most REDD+ initiatives such as UN-REDD and the Forest Carbon Partnership Facility (FCPF) identify tenure reform as an important aspect of REDD+ readiness. In Vietnam, different forest land and forest tenure exist but are plagued with issues, which challenged many forest conservation projects. So, will this impede REDD+ efforts? Tenure also became important to Payments for Forest Environmental Services (PFES), as payments could only be transferred to official 'forest land tenants', undermining many non-tenured forest protectors from accessing benefits. Two critical questions: Should tenure be first addressed for REDD+ to be functional? Or can it be a means for improving current tenure arrangements?

Key Messages

- Since early 1990s, forest tenure reforms in Vietnam have progressed towards devolution of forest management and tenure allocation; however, this varies across the country.
- The existing forest tenure regime is less compatible with REDD+ requirements, making tenure a hot issue to both governments and local communities.
- The current tenure system should not necessarily impede REDD+ initiatives, but will likely succeed with improved tenure arrangements.

Implications

- Re-arrangement of current forest land tenure is needed to make it compatible with the REDD+ Benefit Distribution System (BDS) - this will also form part of a REDD+ safeguard mechanism.
- Disaggregating land and forest tenure is necessary to expedite the tenure allocation process for REDD+ to function.
- Unallocated forests currently under the Commune People's Committee (CPC) management can be turned over to local communities where customary forest management arrangements are still practiced.
- National legal frameworks may be required to clarify the rights of forest tenure holders, to own and benefit from the trade of emission reductions.

Summary of land reform process in Vietnam

The forest land reform process in Vietnam can be traced from 1986 to 2003, characterized by a significant shift from pure state forest management towards individual and communal ownership of forest lands.

Period	Key feature of forest land reform
Before 1990	Pure state forest management
Early 1990s	Inclusion of people in forest management through protection contract and user rights over bare lands
Late 1990s	Individual households were recognized as legal owners of forest lands
Early 2000s	Communities and groups were given forest land ownership

Facts of forest land tenure in Bac Kan and Lam Dong

We explored the compatibility of land/forest tenure settings with respect to REDD+ in two pilot provinces: Bac Kan and Lam Dong Provinces.

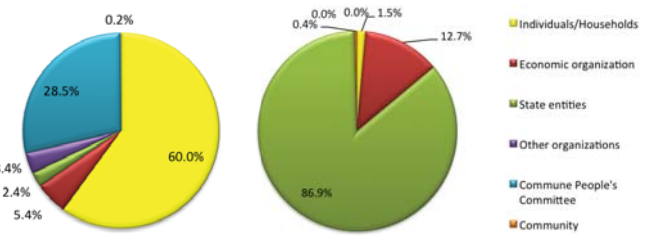


Fig. 1 (left) - Forest user groups in Bac Kan Province (Source: Department of Nature Resources and Environment, Bac Kan, 2011)
Fig. 2 (right) - Forest user groups in Lam Dong Province (Source: Department of Agriculture and Rural Development, Lam Dong, 2012)

- Significant differences exist between the two provinces in terms of forest tenure reform processes and approaches.
- Devolution of forest land management has progressed much faster in Bac Kan than in Lam Dong. In Bac Kan, individual households manage 60% of forest lands, while State entities manage only 2.4%; in contrast, in Lam Dong, state actors control over 86.9% of forest area while local people hold only 1.5%.
- There is a drawback in forest land reform in Bac Kan. To date, 28.5% of forest land in Bac Kan has no formal user (temporarily managed by CPC), while 100% of forest land in Lam Dong has been allocated to users, albeit, a large proportion was allocated to, and managed by State entities.
- Non-forest-owners can access and use forests through a contract scheme. In Bac Kan, the contracts are for forest protection, management and assisting natural forest regeneration, for a 5 year cycle; while in Lam Dong, sub-contracts are limited to forest protection only, for a duration of 12 months.



Forest tenure arrangements

- As shown in Table 1, households, communities and sub-contractees have fewer ‘rights’ compared to State organizations; and the rights is often limited to production forest only.
- Households/individuals/communities are eligible to benefit from protection and special use forest, if they enter into contracts for forest protection, forest management, assisting natural reforestation and forest plantation.
- Forest people do not have equal opportunities, due to limited funding by the provincial government, creating some form of inequality. For example, Lam Dong executed sub-contracts covering 54% of protection forest while Bac Kan covered 10% only; almost all forest people would have been interested in participating the contracts, to earn extra income. Among sub-contractees, the benefit distribution varies depending on funding availability.
- Customary forest management is not popular in Lam Dong, while this has persisted in Bac Kan with some efforts to formalize it. In general, customary law is considered effective for forest management, even more than statutory law, in some cases.

Table 1- Forest land tenure types in Vietnam (Adapted from Westholm et al. 2011)

User	Tenure											
	Access			Use rights			Management			Alienation		
	Prd	Ptc	Spu	Prd	Ptc (*)	Spu	Prd	Ptc	Spu	Prd	Ptc	Spu
State organizations	x	x	x	x	x		x	x	x	x	x	
Communities	x	x		x	x		x	x				
Households/Individuals	x	x		x	x		x			x		
Economic organizations	x	x		x	x		x			x		
Sub-contractee	x	x		x	x				x			
Commune PC (**)	x	x					x	x				

Prd: production forest; Ptc: protective forest; Spu: special use forest
(*) The “use right” of protection forest, it has been limited at exploiting NTFPs, dead wood, old and stunted trees (natural forest) and selective exploitation (planted forest).
(**) Commune People’s Committee is not fully a forest user. It is temporarily managing unallocated forests.
Definition of rights:
Access: the right to enter the area
Use rights: the right to obtain resources e.g. timber, firewood
Management: the right to regulate internal use patterns or transform the resource
Alienation: the right to sell or lease of the land use rights

Risks and challenges of current tenure arrangements to REDD+ implementation in Bac Kan and Lam Dong

The decision of who should have the right to access land and forest resources is critical to the BDS of REDD+, and therefore it is the main focus of REDD+ policy development. The BDS of REDD+ should not be designed in favour of any specific tenure type since there is no clear evidence of an optimal one for protecting forests. In light of “fair and efficient” perspectives, lessons from existing Payment for Ecosystem Services (PES) practices show that a BDS based on a “centralized” forest/land tenure system as in the case of Lam Dong will likely be more efficient but less fair, while one based on a “devolved” forest/land tenure system as in the case of Bac Kan will likely favour fairness rather than efficiency. Some potential risks and constraints to each system are shown in more details in Table 2 below.

Table 2- Challenges in current tenure to BDS of REDD+ in Lam Dong and Bac Kan

		Lam Dong	Bac Kan
Forest land ownership	Status	State owned forest covers not only special use forest such as national parks but also most of production forest and protection forest.	Most production forests have been allocated to households and communities, but, 28.5 % of total forest area (mostly protection forest) has no official “owner” or “tenant”. Currently, it is managed by People’s Committees at commune level.
	Risks & challenges	<ul style="list-style-type: none">• REDD+ revenue management and retention at different government levels.• Corruption and lack of transparency.• Rent seeking by Forest Management Boards, State forest enterprises and other State actors.• Less security of local land and forest use rights.	<ul style="list-style-type: none">• Risks of elite capture and forest land disputes among the community.• A large forest area may not be covered by REDD+ due to lack of owner or tenant.• Scattered forest land patches is an obstacle to large scale implementation of REDD+ interventions.
Benefit distribution to sub-contractees	Status	<ul style="list-style-type: none">• State owned Forest Enterprises (SFEs) and Forest Management Boards (FMBs) received payments as forest land owners and disburse cash to households through short term contracts (normally 1 year).	<ul style="list-style-type: none">• Lack of funding for State forest owners to provide contracts to local people and communities.• Forest land allocation to households and local communities has been very slow and costly.• As a consequence, FMBs and SFEs, with limited man power, have to manage a very large forest area.
	Risks & challenges	<ul style="list-style-type: none">• Sub-contractees have less incentive in forest protection and management since they have no “use”, “management” or “alienation” rights over the forest.• Short-term contracts do not provide stability for farmes/sub-contractees in terms of their livelihoods.• Without the full consent of forest communities, the BDS in-placed or planned for, violates the principle of Free and Prior Informed Consent (FPIC) and REDD+ safeguards.	<ul style="list-style-type: none">• SFEs and FMBs were regarded less effective in forest protection and management by both local governments and communities.• Disappointment of local communities on current BDS especially in protection and special use forests.• Without the full consent of forest communities, the BDS in-placed or planned for, violates the principle of Free and Prior Informed Consent (FPIC) and REDD+ safeguards.
Community forest protection and management	Status	<ul style="list-style-type: none">• Forest tenure has been granted to some communities, but in some cases, this has triggered conflict within communities.• Lacking of “trust” between State organizations and communities on forest land management capacity of each other.	<ul style="list-style-type: none">• Formal tenure to community forestry has been piloted and widely accepted by local communities.• There is interest of the CPC to hand-over the un-allocated forest currently under their management, to local communities.• Customary forest management practices have been successfully applied and proven effective even more than statutory laws.
	Risks & challenges	<ul style="list-style-type: none">• Local communities are currently not recognized as a legal entity by the Civil Code.• Forest land tenure may be challenging and problematic in communities that have different interests and less culturally-integrated.• Performance is less predictable as it is context specific.	<ul style="list-style-type: none">• Local communities are currently not recognized as a legal entity by the Civil Code.• Customary laws may embody discriminatory arrangements.• Performance is less predictable as it is context specific.