



*Protection and Sustainable inclusive management of forest ecosystems in Quang Nam, Kon Tum and Gia Lai (KFW10)*

**FFI'S SUPPORT TO CARBON EMISSION REDUCTION (REDD+) AT HIEU COMMUNE,  
KON PLONG DISTRICT IN KON TUM PROVINCE WITHIN KFW10**



# **FAUNA & FLORA INTERNATIONAL**

## **REDD+ POLICY BRIEF #1**

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**Strengthening local forest monitoring & law enforcement?  
A case study of REDD+ Community Forest Management in Vietnam**

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## KEY POLICY MESSAGES:

-  **#.1:** Customary law & land rights are integral to local forest governance, and essential for sustainable natural resource management. Bringing customary law/rights into clear legal frameworks is useful for several reasons: It acknowledges the importance of customary legal systems practiced by indigenous peoples or other local people (many of which are disadvantaged and marginalized), avoids the creation of parallel and contradictory laws, and makes implementation easier for local people.
-  **#.2:** Local capacity is prerequisite for community-based forest monitoring and/or law enforcement. Long-term capacity building and support from non-profit organizations, local government and other stakeholders is essential to achieving long-term results (for REDD+ projects or PFES in general), both in the development/readiness phase (e.g. 5 years) and long-term (e.g. 30+ years).
-  **#.3:** Project based finance is ideal in the capacity building and piloting – or readiness – phase, but thereafter state funds, PFES payments and/or carbon (credit) contracts – ideally a blended mix of all – are needed to finance results-based forest patrol payments and to cover ongoing oversight and verification, including remote sensing costs, for project coordinators and/or government agencies.

## INTRODUCTION

Law enforcement is a focal issue in improving forest governance and essential to achieving effective implementation of three pillar programmes REDD+, PFES, VPA/FLEGT in Vietnam. This policy paper will share practical experiences around enhancing forest law enforcement in a community-based Plan Vivo<sup>(1)</sup> pilot project in Hieu commune, Kon Plong district, Kon Tum province, which operates alongside state forest protection programs (for example PFES and Decision 2242<sup>(2)</sup>).

The sub-project “Expanding the scope of operation with FFI on carbon emission reduction at Hieu Commune” is part of the KFW-funded project “Protection and Sustainable inclusive management of forest ecosystems in Quang Nam, Kon Tum and Gia Lai provinces (KFW10)” in collaboration with the National Management Board of Forestry Projects and FFI, taking place between 2015 and 2021. The Plan Vivo pilot designed for three (Vi Chring, Dak Lom and Dak Lieu) villages aims to issue community carbon certificates (or ‘credits’). The collaboration means the project design is concurrently carried out along with the KFW10 project activities which provide inputs for REDD+, specifically Community Forest Management (CFM) establishment including Forestland Allocation (FLA) to secure land rights, land use planning, sustainable forest management planning, village forest regulations, institutional community development and livelihood improvements. The project communities are financially benefitting from the project funds (i.e. CFM fund and Village development fund/VDF) as carbon revenue is not flowing yet.

Under the Plan Vivo Standard, the project falls under the following category: Improved Forest Management (IFM) converted from logged into protected forest for Reduced Emissions from Deforestation and Degradation. Project activities are focused on forest protection (e.g. forest patrol to stop illegal

(1) *The Plan Vivo Foundation is an International Edinburgh based charity which against its set of requirements, certifies the implementation of project activities that enhance ecosystem services and allow communities to formally recognise and quantify carbon sequestration, biodiversity or watershed protection.*

(2) *These programs are implemented under the Decision No 2242 by Prime Minister on strengthening management of natural timbers harvesting in the period from 2014 to 2020; and Decree 75/2015/ND-CP dated 9/9/2015 regulations on forest protection and development associated with sustainable and fast poverty reduction focused on ethnic minority people in the period from 2015 to 2020.*

harvesting of trees for timber and forest land converted into agriculture) and logging controlled under a sustainable timber harvesting plan.

This paper shares the on-ground lessons learned drawn out the pilot as below.

**#1:** Customary law is an integral part of community forest governance, and essential for local-level natural resource management. Customary law should be brought into legal frameworks.

**#2:** Local capacity is a prerequisite for forest monitoring and/or law enforcement. Long-term capacity building and support from non-profit organizations, local government and other stakeholders is essential.

**#3:** Project or donor funding is useful in the initial project development, piloting or readiness phases, but thereafter state/PFES and/or climate finance is needed to sustain local forest patrols.

## Customary law/traditional forest management – Forest allocation & law enforcement

Kon Plong, as one of 61 poorest districts of Vietnam, is located in a remote and mountainous area, quite isolated from regional urban/market centres. At least 95% of the population is made up of ethnic minority groups (Xo ðang, Ca Dong and M'nam). These people are depend on certain forest resources and adjacent agricultural land for basic daily needs. All communities make use of: farmland (including permanent and shifting cultivations), sacred forest (i.e. cemeteries), watershed forest (services), wood-lots (fuelwood and construction) and grazing land. Hunting, both illegal and legal remains high and is largely unsustainable. The community territory is large enough for current population levels and therefore no land conflicts have taken place among or between communities. The social survey revealed that there were no community institutions and regulations which are used for punishment (for forest crimes). Indigenous/local ecological knowledge exists as a valuable asset for natural resource management such as forest zoning, forest classification, wildlife identification, forest/land practice, etc.

### **Box 1: Recognition/adoption of customary land law in land use planning and forest land allocation and the impact post-allocation**

**Example (1)** Vi Chring, a typical model for forest land allocation under a participatory approach where 808 ha community forest were allocated under the REDD+ pilot based on customary land law. Some of the observations include:

- All community members are satisfied with the allocated forest and prove more active in forest protection activities/ project intervention activities.
- Forest clearance is rare as almost all community members have sufficient allocations of productive land which are located within the community forest.
- No evidence of forest clearance for agricultural cultivation and logging by the local villagers occurring outside of the community forest (i.e. on state forest) = **No land conflict**

**Example (2)** Dak Lom (260 ha community forest) and Dak Lieu (170 ha community forest) were allocated with limited forest land, unlike customary law based land ownership (i.e 917 ha/Dak Lom and 365 ha/Dak Lieu). Some of the observations include:

- Not all community members are satisfied with forest allocations and are reluctant to engage in forest protection activities and other project intervention activities.
- Forest clearance for agricultural cultivation and logging often occur outside of the community forest (i.e. on state forest nearby where conventional agriculture practice ever was) as productive land allocations are insufficient = **Potential land conflict**

FFI's experience shows that when customary law is not taken into account, legal regulations are not enforced and deforestation and forest degradation become much harder to stop. In villages (as shown on the box 1) where forestland allocation contradicts customary land tenure, the forest outside of legal allocations is still utilized for local use in conventional ways. Such violations are not controlled or managed by local communities, and difficult for state agencies to stop.

## Traditional forest practice vs relevant legal regulations (what to include and how?)

Village forest regulations are usually developed by summarising legal regulations and policies rather than adapting or harmonizing them with local forest practice and traditional forest utilization. Therefore, project villagers tended not to apply village forest regulations fully for their forest management or in other words, such legal regulations are not enforced. For example, 'illegal logging' is defined as felling down a tree with diameter  $\geq 10$  cm without permission. However, felling a tree which belongs to Fagaceae<sup>(3)</sup>, a popular species of softwood and used mainly for fuelwood, is not locally regarded as 'illegal'. Another example is fallow land, by law this is classed as forest (i.e. restoration forest), while customarily this is classed as agricultural land and farming on this land using traditional practice is not regarded as 'illegal' by local people. Clearing small areas of forest to help rice fields access sunlight and support its growth is also not regarded as 'illegal', when in fact it is against the law in most local contexts in Hieu.

### **Box 2: An extract of Dak Lieu village forest regulations**

- **Article 5: Regulations on timber and forest product harvesting, transport and purchase.**

- ✓ Trees can only be felled within the community forest as per the approved forest management plan.
- ✓ Only dried branches or dead trees can be gathered for fuelwood.

- **Article 11: Regulations on violation punishment**

- ✓ Illegal tree felling: A warning will be given out publicly; timber is confiscated and perpetrators are legally punished by CPC. In addition to this, forest protection fund (e.g. PFES) payments are halted.
- ✓ In terms of illegal tree felling for fuelwood, timber will be confiscated and perpetrators punished up to 50,000 VND/faggot. In addition to this, forest protection fund (e.g. PFES) payments are halted.
- ✓ Illegal wild-fruit collecting is punishable with up to 100,000 VND once and warning is publicly given in front of the village; legally punished by CPC.
- ✓ Illegal animal hunting is punishable with up to 200,000 VND.

(3) According to the current timber classification, 11 species which belong to Fagaceae are classified as the group 5 i.e low quality wood.

At the project site, fines (rarely) applied for forest violations have become ineffective for indigenous people/ethnic minorities who live in extremely difficult economic conditions. In many cases they have no other option. Thus, we found that enforcement of legislation occurs only if its application is flexible and compatible with the local context, and partly because FPD recognise the crucial poverty/welfare issues involved. Historically, local customary law does not cover internal violation punishments. Local people have experienced especially difficult life and live in particularly vulnerable socio-economic and environmental conditions. Events such as foot-and-mouth-disease and drought have catastrophic consequences for their livelihoods. In such circumstances illegal behaviours (for example, tree felling for fuelwood, wild animal hunting, forest clearance on-fallowed land, etc) are often ignored both locally and by authorities. Over the past five years of the KFW10 project, no internal violations were punished. Similarly, no punishments in cash (fines) were enforced by Commune People's Committee or Field Forest Rangers.

## Law enforcement in CFM also depends on community capacity

Building community capacity is essential but requires long-term support from Non-profit Organizations, and/or local government or other stakeholders. Limited community capacity, leads to limited law enforcement – for example:

- Limited knowledge of forest regulations, especially in women and children, leads to an increase in violation behaviours, such as tree felling for fuelwood or cattle-sheds. As observed, just a few people shifted into using dried dead trees and branches and saplings (i.e. diameter  $\leq 10$  cm) for fuelwood after efforts to raise awareness. No fuel-efficient woodstoves or gas cookers were used and no iron or bamboo was used to replace wood in house building as local conventional materials e.g. wood, fuelwood are available and much cheaper than alternatives, especially appropriate to extremely limited financial capacity of local people.
- Community Forest Management Board (CMFB), a newly established institution is functioning as the REDD+ activity management and coordination at community level. Its capacity is not yet strong enough to manage forest patrol activity well. As the CFMB lacks capacity and authority (governance), violation cases are often not detected in time. And if detected, relevant authorities (CPC) are not or rarely notified, and patrol data are not recorded. Similarly, CFMB is not able to establish and implement sustainable forest management plans due to a similar lack of capacity but also mandate – and so timber harvesting for local use is not monitored closely.
- PES income (i.e. the current payments under PFES or KFW10 fund and state programs, and even future payments such as carbon revenue) at the household level appear to be too low to result in large-scale or widespread wellbeing improvement and/or local communities struggle to use these financial sources in an effective way. The models have however had some success, which should be replicated, e.g. under micro-finance model, collective group or co-operative. Further, they are technically incapable to turn

into alternative high income livelihood types as planned, e.g. medicinal plants species or cold resistant coffee production. Motivation of local people to participate in project activities therefore remains low. In summary, under the performance-based payment system, the carbon project requires great efforts of local communities to follow strict requirements towards the target of sustainable forest management. In fact, the implementation of REDD+ activities such as project management or coordination, forest patrol, sustainable forest management, livelihood improvement requires legislative, technical, managerial knowledge and skills including financial management beyond their capacity. Significant capacity building coupled with external technical and financial support remains necessary.

## Policy recommendations:

Customary law-based forestland ownership satisfies various community needs, typically the model of forestland allocation in Vi Chring should be referred to as best practice for policy development. At implementation level, this lesson should be incorporated into land use planning i.e. focused on varied community needs; not only productive land/agricultural land according to the programme 134<sup>(4)</sup> previously), but also forested land. Sustainable forest management and landscape level biodiversity conservation requires strong land-use plans to be in place. Land use planning for Kon Plong district in particular is an urgent need as potential land conflicts/forest utilization might arise, resulting in forest degradation and undermining efforts of the local forest sector.

Different villages have different customs and forest practices but all need to be respected if we want REDD+ to be successful. National legal frameworks should be and flexible to accommodate REDD+ design and implementation in different villages. At the subnational level (province), guidelines should be issued to specify and adapt the national principle guidance to local conditions.

Local ethnic minority communities are extremely disadvantaged and at the lower end of the development process<sup>(5)</sup>. This often presents additional barriers to REDD+ implementation. They need financial and technical supports from International or Domestic Non-profit Organizations or Charity Organizations as these are rooted in the local context - as opposed to private companies or consultancies which provide their consultancy services on profit purpose (e.g. Forestry Companies). Until REDD+ or other PFES programmes are enlarged, with engagement of millions of local households and communities at national/subnational scales, the demand for such support would remain high. Donor funded, or indeed commercially invested (but supported by state or NGO actors) projects, are a proven and effective tool in the development and readiness phase. However, to achieve significant impact, for climate, social and biodiversity benefits at scale, require additional finance in magnitudes of order larger than what is

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(4) The programme is implemented under the Decision No.134/2004/Prime Minister on support policy of productive land, residential land, house building and living water to poor ethnic minority households.

(5) According to the concept of community development (John L. McKnight và John Kretzmann), escalation process consists of 6 steps: Passive participation – Participation with a role of providing opinions – Participation with a role of consultancy – Participation by involved in activities – Participation by engaged in decision making – Self-management.

currently available. A blended approach to finance at landscape or national scales could achieve this by combining large-scale international climate finance (e.g. GCF or World Bank) with expanded national PFES and private sector finance.



***Community Patrol Team (REDD+) in Hieu Commune***

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## FFI's vision

*A sustainable future for the planet, where biodiversity is effectively conserved by the people who live closest to it, supported by the global community*

## Authors

### Dang Thanh Liem

Project coordinator

Email: liem.thanh.dang@fauna-flora.org

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## Background and Disclaimer

FFI has been working with national level and local counterparts, in Kon Tum since 2010 to develop a pilot, voluntary-market REDD+ pilot. In 2020, the project was validated under the Plan Vivo Standard.

**The views expressed in this policy briefing do not necessary reflect the views of the Government of the Socialist Republic of Vietnam, KFW or FFI, or any other party.**



## For more information please contact:

Fauna & Flora International

Email: [info@fauna-flora.org](mailto:info@fauna-flora.org)

[www.fauna-flora.org](http://www.fauna-flora.org)