

Co-management of protected areas: a property rights point of view

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Abstract—Co-management is an increasingly-used tool in natural resource management around the world, in situations where the protection of natural resources has to ensure the livelihoods of local people who have traditionally relied upon these resources. It is a mechanism of sharing power in decision-making and sharing the benefits of natural resources between stakeholders (usually governments and local communities). In Vietnam, several governmental pilot projects on co-management of PAs were launched over the past decade, with the purpose of eventually scaling up as a national policy. Nationwide, co-management initiatives have been implemented for protected areas (PAs). Therefore, a full assessment of the PAs co-management paradigm is needed. This paper aims to increase the understanding of the “state-of-the-art” of co-management that exist within PAs and to direct attention to the issues associated with property rights in conservation. It assesses the co-management of PAs in terms of concepts, practices and implications that relate to indigenous peoples and community land and resource rights. The paper begins with a theoretical discussion about co-management of PAs and property rights. Next, it analyzes a wide range of biodiversity-rich countries that have different time schedules for applying co-management in PAs. The analysis also focusses on various types of PAs such as forests, game reserves, pastureland reserves, marine PAs, etc. It then encompasses experienced cases of community – based forest management in Vietnam that may be applicable to co-managed PAs. This paper reveals that co-management could be an effective tool for PAs management as long as the property rights of local communities and their members are defined clearly and satisfactorily. Among them, land ownership/land-use rights have the most influence on the nature of the co-management agreements. The co-management of PAs officially acknowledges

the rights of locals who live in and around forests, to enter, use and manage PAs. These management rights of communities are collective rights rather than individual rights, while ultimately management rights belong to governments. Governments retain the rights to control forest resources; to make decisions about forest products with high value; and to approve policies related to the PA management plan, exploitation license, development of forest management guidelines. In conclusion, governments usually do not empower local communities regarding their exclusion and alienation rights.

Keywords—protected areas, property rights, co-management

1. INTRODUCTION:

Co-management has been developing in places where the protection of natural resources (NRs) has to be reconciled with the livelihoods of local people who have traditionally relied upon these resources. Co-management is a complex concept which primarily addresses the efforts of (1) sharing power in decision-making about natural resources between stakeholders, (2) equitable sharing of resource-related benefits, goods and services provided by natural ecosystems and responsibilities, (3) seeking social justice and equity in the management of NRs, and (4) community – based and community-run initiatives. According to this definition, while traditional natural resource management systems are mostly subsistence-oriented, CM of NRs is based on agro-industrial-market systems. CM is ultimately an economically-oriented ecological issue. In the meantime, market-based rules point out that one of the major causes of market failure is unclearly-defined property rights of the resources or characterization of their characteristics.

According to Borrini-Feyerabend et al. [1], CM of PAs plays a critical role in PAs conservation. They state that communities (Indigenous Peoples and local communities) are the oldest and the most

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“natural managers” of preserved areas. Based on G. Hardin's theory of the failure of the commons (1968), a few powerful individuals had seized these common lands to make as much profit as possible. Later on, states have nationalized lands of high biodiversity value to establish PAs for the purposes of preservation. Then, companies and corporations have bought PAs in order to develop tourist activities. In developed countries, PAs managed by customary law have gradually faded. Common ownership has almost been completely replaced by state or private ownership. In developing countries, the process of nationalization was in transition, leading to severe conflicts between traditional natural resource management (community-based) and modern (legal) systems. Recently, many countries have come to the realization that preservation by forcing people out of PAs is inefficient. That realization marked a paradigm shift from preservation to conservation. The PAs turned to restore common property rights for this NR. Obviously, the restoration tries to combine biodiversity conservation initiatives instead of the original status quo of indigenous common property rights. This is the only opportunity for the governments and communities to build a sustainable and effective conservation common ground. This new framework called for the recognition of the rights and roles of communities in PA conservation using a participatory approach. Participation should include the rights, interests and aspirations of communities. The 2012 World Conservation Congress of International Union for Conservation of Nature (IUCN) officially adopted co-managed PAs as a set of governance tools [1].

In Vietnam, CM of PAs has only been launched within the last decade as a national policy [5, 6]. Officially, there are two on-going pilot projects of CM at Xuan Thuy National Park and Bach Ma National Park [2 - 4]. In the meantime, research projects and initiatives on applying CM in several PAs have been conducted [2 - 5, 20, 22 - 27, 33, 37 - 44], most of which focusing on identifying the actors to be involved and constructing benefit-sharing mechanism [4, 22 - 29]. Still, the concept of co-managed PA in Vietnam implies a fuzzy understanding. Other alternative terms are used, including community-based management, community forest management, benefit sharing mechanism, participatory management, and collective management [3, 5, 6]. Hence, it is

necessary to proceed to an analysis and a synthesis of the concept and its worldwide practices before scaling up this national policy in Vietnam.

2. METHODOLOGY

To assess how CM of PAs relate to indigenous peoples and community land and resource rights, this paper begins with a theoretical review of CM of PAs and property rights. Next, lessons from the global context are taken, through analyzing a wide range of biodiversity-rich countries such as Australia, Mongolia, Bangladesh, Nepal, South Africa, Tanzania,... These countries have various histories of applying CM in PAs with a time span ranging from one to five decades. These global lessons also discussed with reference to various types of PAs, including forests, game reserves, pastureland reserves, marine PAs, etc. As far as the Vietnamese context is concerned, although there are two pilot projects and many initiatives on CM for PAs, only Phong Điền Nature Reserve is really dealing with property rights. Hence, this paper also encompasses Vietnam

3. FROM A THEORITICAL REVIEW TO CO-MANAGEMENT OF PAS

According to IUCN, a PA is “a clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long term conservation of nature with associated ecosystem services and cultural values” [7] (p.7). This definition emphasizes that conservation is needed to reach sustainability and that ecological services are major factors of sustainable conservation. This definition leads to six management categories including Strict nature reserve (Ia), Wilderness area (Ib), National park (II), Natural monument or feature (III), Habitat/species management area (IV), Protected landscape or seascape (V), Protected areas with sustainable use of natural Resources (VI) [7]. However, for historical reasons, the classification of PAs differs from one country to another. In Vietnam, by law, the PA system is categorized into Forest Protected Areas (also special-use forests), marine and inland water PAs [8 - 10]. The special-use forests which include in-situ conservation PAs (national parks, nature conservation zones, landscape protected areas) and ex-situ conservation PAs (scientific research and experiment forests), are the focus and core/center of conservation [11]. By 2007,

Vietnam had 144 in-situ conservation PAs, among which: 30 national parks, 58 nature reserves, 11 Species/habitat conservation zones, and 45 landscape protection areas [12].

The world's first PA – Yellowstone National Park – was established in 1872. Ever since, the number of PAs has constantly increased. At first, PAs were established for the sake of preservation, on the basis of bio-centrism/eco-centrism – a doomed environmentalism that protected NRs from humans, as a reaction to what was viewed as over-exploitation [13, 14]. PAs were untouched natural areas. During this era, the management policy proscribed the involvement of people. It excluded the local and indigenous people as well as their values, knowledge and management systems of the conservation of NRs. The dominance of eco-centrism led to high preservation costs and increased socio conflicts in and around PAs: a trend that led to threatening the original preservation goal [15]. This point marked the convergence of eco-centrism and anthropocentrism (an anthropocentric action is

taken for the reason of the provision of a benefit to human beings) [13], thereby, representing a radical shift from strict preservation towards conservation in accordance with sustainable regional development. With this paradigm shift, public participation issues gained significance [14, 15 - 18]. According to Pelayo (1994), participation is a continuous process of empowerment of stakeholders in decision-making, including the sharing of risks, authority, responsibility and accountability. Participation fosters voluntary and collective stakeholder engagement, for the provision of sustainable development [19, 20]. Therefore, PA governance is a continuum of governance options from government management to CM and community management [6, 17]. This continuum describes the increase of participation until the most desired outcome: the full management authority and responsibility held by the concerned communities, is reached (Figure 1).

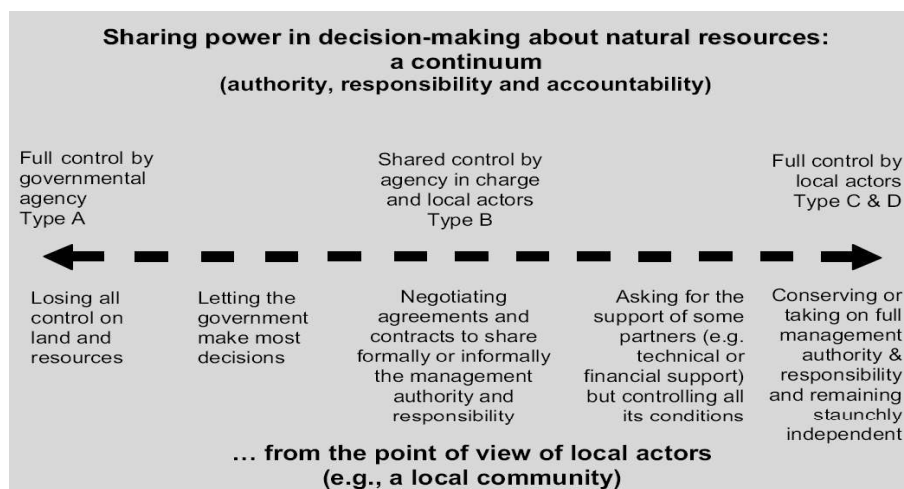


Figure 1. Governance options for PAs (adapted from G. Borrini et al., 2011, p.17)

Along this continuum, co-management is a transition from government to community management. Obviously, CM has a broad spectrum of sharing power, along which community power is increasing. Furthermore, through the Vth World Parks Congress in Durban (2003), IUCN has recognized four governance types that can be associated with any management objective. The level of participation is increasing from government-managed PAs to co-managed PAs, private protected areas and community

conserved areas [17, 21]. Officially, the co-managed PAs are defined by IUCN as “*Government-designated protected area where decision making power, responsibility and accountability are shared between governmental agencies and other stakeholders, in particular the indigenous peoples and local and mobile communities that depend on that area culturally and/or for their livelihoods* [1] (p.6). CM is a form of shared governance, which comes in 3 different forms, namely: **collaborative management**

(decision-making authority and responsibility rest with one agency but the agency is required to inform or consult other stakeholders); **joint management** (various actors sit on a management body with decision-making authority and responsibility, however, decisions may or may not require consensus); and **transboundary management** (involving at least two or more governments and possibly other local actors) [17, 21]. The co-management body is a multi-party management organization—with mandates for advice, development of technical proposals, or outright decision-making. This body includes representatives from different actors and can be called differently (co-management council/board, advisory council, natural resources management council...). There is a great diversity of possible stakeholders, including government agencies (e.g. state/local government/management board of a PA), communities and individuals in communities (indigenous, local and mobile communities), non-state agencies (non governmental organizations, research institutions, semi-governmental bodies...), private operators (e.g. those providing tourist facilities), and business/corporation (e.g. tourist companies, traders...). Co-management arrangements do *not* need to give every stakeholder equal importance for consultation and decision-making purposes. Among stakeholders, primary stakeholders hold primary rights at a time, different stakes, and entitlements with respect to the PA. Furthermore, the core idea is that CM is a more flexible process than a stable and definitive end point in management. This flexibility comes as a product of agreement among actors and the recognition of both customary. In CM, agreement is reached between negotiating actors on a management plan, including complementary initiatives, by-laws, incentives and compensations, claim customary and/or legal rights to lands and resources. The purpose of agreements is to clearly define property rights, including (1) identifying the ecological and sustainable use services provided by the existing resources in the reserve; (2) establishing who the users/beneficiaries of these ecological services are; (3) determining the benefits and categories of rights that each user/beneficiary is entitled to; (4) determining how various categories of rights should managed, i.e. how functions and responsibilities should be assigned to the various stakeholders.

4. TOWARDS THE CONCEPT OF PROPERTY RIGHTS OF NRS

According to environmental economists, property rights are the foundation for nature conservation and sustainable use of natural resources. Libecap (1989) used the term “property rights” in a broad sense: “social institutions that define or delimit the range of privileges granted to individuals regarding specific assets or resources” [30] (p.17). In a narrower sense of NR conservation, Bromely (1991) sees property rights as “a bundle of entitlements defining the owner’s rights, privileges, and limitations for the use of natural resources” [31] (p.2). Property rights specify the various claims that one has to a NR, such as what one can and cannot do and what one is entitled to. If clearly defined, property rights are an incentive for an owner to invest in, sustain, and improve resources [31, 32]. Panayotou (1992) claimed that property rights have four attributes including **exclusivity**, **assurance**, **enforceability** and **transferability**. However, in developing countries, due to social – cultural and historical factors, property rights of NRs are seldom clearly defined or the rights are not ensurable and/or enforceable [32].

There are four property-rights regimes determined in the literature:

- State property regime: the state has the right to determine use or access rules to the property.
- Private property regime: individuals have the right to undertake socially acceptable uses and have a duty to refrain from socially unacceptable behaviours.
- Common property regime: the property is managed by members of a group and each member have both rights and duties with respect of using the common resources. The property under this regime is usually the NR upon which the entire group/community depends. The regime shapes and regulates the use rights of individuals to prevent over-exploitation of the NR.
- Non-property regime (or open access resource): the property that have no defined owners, meaning the property is available to anyone.

While referring to “the tragedy of the commons”, G. Hardin (1968) argued that the state, the common and the non-property regime led to the failure of the commons. Several scholars disagreed on that. They expressed that it was only the open access resource that led to failure. Those

authors gave numerous examples of communities managing a common resource sustainably by referring to stakeholder representations and based on the principle of negotiation. According to them, there are two possible approaches in property rights to resolve the “tragedy of the commons” in Pas: institutional and ecological economics [31, 33, 34]. Using the institutional approach, the governments intervene in ownership reallocation of forest NRs, by specifying who are the ecological service providers, who are the beneficiaries, what the benefit sharing mechanism is, and who will pay. Legal property rights are easily recognized and are a critical tool to archive economical property rights. From the ecological economics approach, property rights are the ultimate benefits for which the owners are seeking. The rights are reflected, recognized and executed by legal or customary law. As such, property rights of PA’s NRs not only have to comply with government regulations but they are also partially dominated or adjusted by cultural norms of the community that manages and uses the resources.

In general, properties of PAs are categorized into land, timber and non-timber forest products as commodities, timber and non-timber forest products for subsistence purposes, economic activities related to agriculture or associated with the PA’s resources (gazing, hunting, fishing, tourism, pleasure, religions and reliefs..), and ecosystem services [33]. The property rights of PA properties can be merged into two groups: operational level rights and decision rights. To acquire property rights properly, resource users must possess both of them [30, 31, 34]:

- **The operational level rights** include:

- **Access rights:** the rights to enter the defined area of a PA and to enjoy non-consumptive benefits (e.g. photography, hiking, scuba diving). Those who possess these rights are labelled as “authorized entrants”. These rights may be conferred by birth (e.g., citizenship), social relations (e.g., family member), geography (e.g., local resident), or contract (e.g., fishing license). For example, in Bonaire Marine PA, Netherlands, only divers and diver tourist companies that paid a fee could access the PA. The communities that inhabited and surrounded the PA could not enter the PA, which resulted in the livelihood risks and escalating conflicts.

- **Withdrawal rights:** the right to harvest resource units (as specified) from the NR system (e.g., fishing, gathering wood, picking fruit etc.). Those possessing both access and withdrawal rights are referred to as “authorized users”. However, authorized users do not have the authority to determine their own harvesting rules or to exclude others from accessing the resource. In the marine PA in Mabini in the Philippines, user rights are opened to the tourist boat operators while restricting fishing rights to designated areas of the PA.

- **Decision rights:** consist of the highest rights of property rights, including:

- **Management rights:** the authority to define how, when, and where consumptive resources may be exploited, whether and how authorized users may exercise these rights as well as how the structure of a resource may be transformed (e.g. retaining current status or widening afforestation areas, changing land use types, moving to new wood management policies). Those possessing these rights are called “claimants”. In co-managed PAs, management rights are partially transferred to local resource users. For instance, local communities in several co-managed PAs can set restrictions on certain types of fishing gears, install mooring buoys to prevent boat anchor damage, and add fish-aggregating devices to enhance fish catches.

- **Exclusion rights:** the authority to exclude individuals or groups from entering a specific area or exploiting a defined resource in PAs. Thereby, exclusion rights include the rights to decide who are authorized entrants or users of a resource. Those who are conferred the exclusion rights are known as “proprietors”. For example, in co-managed PAs, local communities have the right to exclude non-local people from fishing in the PA or non-local people have to pay for fishing permits.

- **Alienation rights:** the ability to transfer (sell or lease) either resource management rights or exclusion rights to another. Those that possess alienation rights are owners of the property. For example, local communities of a PA can have alienation rights of a specific coral reef, or in another PA, the government can transfer the management rights of a lagoon from local communities to a CM body.

5. PROPERTY RIGHTS IN CO-MANAGED PAS: LESSONS LEARNT

a) Global experiences

Ideally, for co-managed PAs, property rights are based on agreement or consensus among stakeholders by vote or negotiation. Among actors, communities that have ever occupied and used land and other NRs of PAs are allowed to claim forest property rights by legal or customary law or a combination of both. At the very least, communities are the primary and targeted stakeholders. Each of them should be a legal and self-determined entity for NR management. Moreover, communities are involved in decision-making on conservation initiatives affecting their livelihoods, and have the authority to exclude outsiders [1]. Thus, co-management is a consensus decision-making, in which agreement should be focused on specifying what property rights each actor gets; what ecological and sustainable services are available, who the users or beneficiaries of these services are, what benefits and rights they are vested; and how to manage the benefits, rights and responsibilities of each stakeholder [31].

In practice, CM of PAs are continuously in progress, within international supports and assistance. The main findings from global lessons are as follows:

- Public involvement varies greatly, depending on the specific historical, political, social, economic and cultural context of each PA. The more that communities participate in the early state of planning, the greater the management success for communities and governments

- Globally, operational level rights are:

- Access rights conferred to different stakeholders. For direct-use ecological services (e.g. fishing, thatching grass, collecting wood, game, aquaculture, medical plants), individuals in local communities directly possess rights to access these resources. Additionally, domestic and international visitors can be authorized entrants through the payment of applicable fees. For indirect-use resource values (also value of diversity), the access rights are widely conferred to national inhabitants. For non-use value (e.g. existence and bequest value), these rights are open to global communities

- Withdrawal rights of NR that have direct-use value (except for tourist activities) are conferred to individuals in local communities. For indirect-

use (or biodiversity value), all members of a country are authorized users. Tourists and global communities are not considered as authorized users of the NRs. No one owns withdrawal rights of non-use value.

- Authorized entrants and users who are individuals in local communities can only exercise their rights in certain small areas of PAs, usually called open areas, sustainable areas or buffer zones. The other areas remain untouched and are called closed areas. Authorized entrants and users can only enter or exploit NRs within specific time frames, usually seasonal or rotational. Entrants are controlled by restrictions on what resources they can exploit and how much they can be exploited. Moreover, means or vehicles of exploitation are also regulated. For example, hunters must use conventional hunting gear instead of modern guns with heightened potential for destructivity in a game reserve, or fishermen have to use scalable safety fishing nets. In the case in which users are individuals in a community, exploitation quotas are calculated on subsistence basis. Individuals and communities are offered incentives for a sustainable use of the resource. For example, they can participate in ecotourism or exclusive hunting for hunting quotas at relatively low prices. However, those incentives are not guaranteed. The management plan does not have long-term planning for these activities. When there are wildlife attacks, there will be little or no compensation for casualties and damages and no technical assistance whatsoever.

- Some management rights are allocated to individuals and communities. Certain individuals can be forest rangers once they have followed training courses. A community as a whole has some management rights in buffer zones. However, community either does not have a direct role in NR management or does not directly participate in the decision-making process. For example, it has the right to declare collective land on a part of PAs that previously belonged to it, but there is no land use certificate to be granted to that part of land. Meanwhile, CM council has the authority to define the accessible areas, regulate and monitor resource management rules, sign contracts and resolve minor conflicts and violations. As such, community indirectly possess management rights through CM council, so-called 'collective-choice rights'. Finally, governments at different levels own highest priority management

rights, such as rights to decide the forms of contracts, tax, quota for resources, etc...

- Exclusion and alienation rights are seldom mentioned in the reviewed documents

In short, the property rights conferred to local communities are mainly operational level rights. Their decision rights are mainly collective-choice rights. The individuals indirectly possess management rights through the community as a whole or co-management council. Without these collective-choice rights, the community, in effect, has become “authorized users” rather than proprietors or owners. Therefore, one may argue that individuals and communities are authorized users and entrants, co-management councils or communities are claimants, and local and state governments are real proprietors and owners of the PA resources. For that reason, several authors call property rights of NRs **usufruct rights** [33 - 35, 44].

b) Vietnam experiences

According to IUCN [44], the main barriers to

the implementation of CM in Vietnam are issues related to the 5 usufruct rights. Besides, these rights are defined differently by legal law and customary law (Table 1). By legal law, withdrawal rights are handed to title holders. Holders can maintain their titles in a time span ranging from 50 to 70 years. As defined in the Law on Forest Protection and Development in 2004, title holders include management boards, economic organizations, households or individuals, military organizations, educational and research institutes for forestry, foreign individuals and organizations, and communities. However, according to civil law, a community doesn't have a legal status. Moreover, the benefit sharing mechanism is unclear and the amount of share for individuals in communities is small. For management rights, communities can only consult government in management processes. Conversely, in customary law, the property rights of individuals in community and the community as a whole are much better.

Table 1. Property rights in customary and legal laws[44]

Property rights	Legal law	Customary law
Access rights	Everyone, except for special cases.	Individuals in the community Outsiders to be determined on case-by-case basis
Withdrawal rights	Forest owners (Community are not recognized as a forest owner in civil law) Benefit sharing mechanism: Total share for stakeholders is quite low (e.g. forest owners can benefit 32% of timber income after taxed)	Individuals in community with first come first served basis. Special cases are applied to outsiders Benefit sharing mechanism: total share for individuals is higher, based on actual needs of members in the community
Management rights	Ultimate control belongs to governments, including decision on land use types Based on the national and provincial legal frameworks, unclear, complex.	Ultimate authority belongs to head of the community, including decision on land use types Benefit sharing mechanism is built on agreement and cooperation.
Exclusion rights	Forest owners can exclude others from access the land and exploit the resources	Community have authority to exclude outsiders, otherwise specified
Alienation	Forest owners can mortgage, lease, inheritance and transfer forest and forest land use rights	Individuals can transfers only among community members
Assurance	Time frame 50 – 70 years	Indefinitely as long as individual recognizes and respects property rights of others in the community
Enforceability	Forcible measures are through law system and forest ranger system.	Head of community

N.T.T. Trang [21] analyzed in detail the allocation of usufruct rights in the context of community-based forests management in Central Highland (Table 2). The case showed that community and its individuals have access, withdrawal, management and exclusion rights on

specified land areas. Those rights have a stratification between the community and the community members. Besides, they can make the forest “open access” only for public and household purposes.

Table 2. Property rights of community members in Central Highland [21]

Resources	Access and withdrawal	Management	Exclusion	Alienation	Property rights mechanism
Forestland for agricultural and housing purposes	On the area allocated by the community at a stable location	Directly manage the allocated area	Outsiders can be allocated	Inheritance and transfer between community members	Individual rights on allocated area
Timber	Restrictions on amount, type of wood and location of extraction Withdrawal as regulated by community	Participate in the development of exploitation plan and monitoring its implementation		Transfer between community members	Collective rights(for commercial timber), individual right (for household purposes)
NTFPs	No restrictions for household purposes of the community	Control	Outsiders are excluded	Transfer between community members	Open access (household purposes); individual rights as regulations of community
Grazing, hunting, protecting water resources	Allocated to members	Monitoring			Individual rights as convention of community
Transportation, cultural and belief activities	Open access				

N.T.T. Trang [21] also argued that the government retained its power in (1) management process, (2) issuance of regulations, and (3) decision-making on key issues such as planning, forest use, limited area of cultivated land and

management of forest product exploitation. Community has a role in specifying, organizing, implementing, controlling and monitoring those regulations (Table 3)

Table 3. Management rights at community based forest management in Central Highland [21]

Management tasks	Government	Community	Individuals, households
Forest planning	Zoning land use and forest use	Developing and organizing forest management plans	Following the plans; monitoring the implementation of the members
Dividing forest areas and grouping households	Guiding the process and implementation techniques	Conducting process	Discussing
Timber exploitation management	Specifying rules for each type of forest	Developing and submitting exploitation plans to authorities for approval	Follow the plans
NTFPs exploitation management	Specifying restricted products and categories	Developing management rules	Following the rules, and monitoring the exploitation
Exploitation control	Setting up standards and procedures of harvests	Conducting harvests	Following the rules
Grazing, hunting, protecting water resources, cultural and belief activities...	Promulgating regulations, approving and supporting the implementation of community regulations	Developing and implementing regulations and management plans	Participating in development and implementation of regulations; Monitoring the implementation of regulations
Forest protection and forest fire fighting	Developing regulations and technical guidance	Developing and implementing regulations and management plans	Following regulations
Establishment of management board and community neighborhood watch	Promulgating regulations	Ensuring the operation of community neighborhood watch	Deciding to participate or not

6. CONCLUSION

From the perspective that community is a natural alliance in biodiversity conservation, CM model of PAs is a stepping stone in the process of restoring community based management. The above literature review shows that CM is officially recognized in countries where the livelihood of locals depends on PAs. In fact, CM can be seen as the transition of power from state to local people who were the original resource users. This is also the trade-off between the rights and benefits of conservation agencies and various local communities. The main characteristic of CM is the transfer of parts of management rights. Generally, those rights have been allocated to locals and benefits from PAs have been shared to stakeholders, which may lead to more sustainable

resource exploitation. Thus, the model has so far proved to be an effective tool for resolving the “tragedy of commons”. From the property rights point of view, it is essential to clearly define the rights of community and its individuals within and around PAs. Those rights must satisfy the government’s priority towards long-term conservation as well as to ensure sustainable livelihoods for communities. Moreover, land ownership has the strongest influence on the nature of the CM agreements. This explains why operational rights have been conferred to locals and communities as individual rights while the decision rights have been conferred to them as collective-choice rights. In Vietnam, where this process has just been initiated through pilot projects and initiatives, there is an obvious need to work harder on defining property rights before

applying this model nationwide. Focus should be placed on building a clear benefit mechanism and on establishing a legislation that recognizes community as a title holder.

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Đồng quản lý khu bảo tồn nhìn từ góc độ quyền sở hữu tài nguyên

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Tóm tắt—Đồng quản lý (ĐQL) là một công cụ ngày càng được sử dụng rộng rãi trong quản lý tài nguyên thiên nhiên, nhất là trong những trường hợp mà bảo tồn tài nguyên thiên nhiên cần đi đôi với việc đảm bảo sinh kế cho những người dân địa phương sống phụ thuộc vào tài nguyên đó. ĐQL là một cơ chế chia sẻ quyền ra quyết định và chia sẻ lợi ích về tài nguyên thiên nhiên giữa các bên có liên quan (thường là giữa nhà nước và các cộng đồng địa phương). Ở Việt Nam, vài dự án nhà nước về ĐQL khu bảo tồn (KBT) đã được thí điểm trong hơn thập kỷ qua trước khi thực hiện đại trà mô hình này. Nhiều sáng kiến về ĐQL cũng đã được manh nha ở nhiều KBT trong cả nước. Vì vậy, cần có sự đánh giá đầy đủ về ĐQL KBT. Bài báo này nhằm đánh giá hiện trạng ĐQL KBT từ góc độ quyền sở hữu tài sản. Cụ thể, bài báo phân tích lý luận và thực tiễn ĐQL KBT có liên quan đến quyền sở hữu tài nguyên của cộng đồng. Trong đó, các bài học được rút ra từ (1) các nước có đa dạng sinh học cao với thời gian áp dụng ĐQL khác nhau và (2) đa dạng về loại KBT,

bao gồm KBT rừng, KBT thú săn, KBT đồng cỏ, KBT biển,... Bài báo cũng phân tích vài trường hợp quản lý rừng dựa vào cộng đồng ở Việt Nam nhưng có thể áp dụng cho trường hợp ĐQL KBT. Kết quả cho thấy ĐQL có thể là công cụ quản lý KBT hiệu quả nếu quyền sở hữu của cộng đồng và các thành viên cộng đồng được xác định rõ và đảm bảo. Về cơ bản, ĐQL KBT chính thức thừa nhận quyền sở hữu tài nguyên của người dân địa phương, bao gồm các quyền tiếp cận, chiếm hữu và quản lý KBT. Tuy nhiên, quyền quản lý KBT của cộng đồng được thông qua cơ chế quyền chung. Người quản lý cuối cùng vẫn là nhà nước. Nhà nước nắm giữ vai trò không chế trong kiểm soát tài nguyên KBT, trong việc quyết định khai thác các lâm sản có giá trị cao, trong phê duyệt các chính sách liên quan đến kế hoạch quản lý KBT, cấp phép khai thác, xây dựng quy chế quản lý KBT. Trong ĐQL KBT, người dân địa phương nhìn chung chưa được trao quyền loại trừ và chuyển nhượng.

Từ khóa—khu bảo tồn, quyền sở hữu tài sản, đồng quản lý