A study of Hmong and Dao land management and land tenure in Tam Ty commune, Hoang Su Phi district, Ha Giang province

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Summary of findings

Present day land tenure and land use among the Hmong and the Dao in Nam Ty Commune is relatively similar. Both groups depend mainly on wet-rice cultivation in terraces and the cultivation of Cassava in swidden fields along the hill-sides. The main cash crop is Tea, and animal husbandry is limited to mainly pigs, goats and chickens. Horses and waterbuffalo are used extensively by both groups as work animals. Traditional land use patterns did not differ considerably, although the Hmong did not start to grow wet-rice until the 1960’s but instead depended on Maize as a staple crop. Both traditionally and at present, the Dao have on average more land than the Hmong. The reason is not clear, but with the Dao being the earlier arrivals, and their being in the majority in the Commune (70%), it seems understandable.

Decree no. 10 and Decision 100 were never implemented in Nam Ty. The situation of land tenure is that left by the "unofficial" land allocation made by local officials in conjunction with the collapse of the cooperatives. The situation of land claims have led to many, at present ongoing and unsolved, land disputes. The main reason seem to be claims based on traditional land tenure rights conflicting with land rights issued at a later date, and the generally unfair distribution of land in the Commune as a result of past allocations where the methods used provided the present day unequal situation. The present land allocation process is "legalization of the present land occupancy" (see pg.19 in appendix 11), therefore, a fair redistribution of land is vital before any Land Tenure Certificates are issued. Agricultural land regulated by traditional land use rights concerning ownership is not subject to disputes. The unclear situation only involves land where the cooperatives changed the land tenure and land use pattern.

The present situation of decision making in the land allocation process is inadequate. It has proven very difficult for local leaders to make necessary decisions in trying to solve disputes because of family ties and the very strong village cohesion and solidarity. District and Provincial levels have not always taken their responsibility in the process, but instead left decisions to be taken by local leaders. Working towards solving the ongoing land disputes, a revision and reworking of the method of decision making is needed. Flagrant corruption in highland localities, where individuals have been able to hoard large areas of land, have seemed to slow down democratic efforts of redistributing land such as the very commendable efforts taken by local leadership in Nam Ty. If this process is allowed to continue, the social and political instability these inequalities gives rise to may be difficult to handle in a local economy where subsistence agriculture is the basis for the survival of both the culture and its people.

There is a need to expand the activities of the MRDP in the commune. The level of the local economy is too low to provide for ex.
effective forest protection or for the experimentation with new cash crops. Because of Government policy on not involving one commune in several different Aid Programmes or Government Contracts, the MRDP need to expand its activities to support the needs of each locality. If not, an effort towards for example long term utilization of forest resources will not be sustainable because as witnessed; poor farmers with little land may have no other means to support their families except for logging.

Womens participation in planning and decision making should be strongly supported through closer collaboration with the Womens Union at all levels. Establishing a local market and to evaluate possible sources of income other than agriculture are important steps to be taken if the situation for the local women is to be strengthened towards a more independent role.
Research Methodology

Semi **structured and open-ended** interviewing were used on all levels, and triangulation and cross-checking of the information received, whenever possible. Interviews and informal talks were conducted with a wide range of individuals in the villages concerned. Retired cooperative officials, work group leaders, village headmen, experienced old farmers, and commune officials as well as a number of individual household representatives from a wide range of socio-economic backgrounds. Observation in the field focused mainly on the farmers living conditions and agricultural practices. The findings are presented in a comparative (Dao/Hmong), and a historical (pre/ post cooperative and present period) perspective. Statistical data was obtained mainly through various offices at Province and District level in the first few days of field research. These data were subsequently crosschecked with documents at village and commune level, and with village and commune officials. It should, with regret, be stated here that most interviews and even informal talks were held with men. The cultural barriers and shyness of the women effectively shut us out from their reality. We wish to emphasize the need for similar studies done where, preferably one female and one male researcher work in cooperation.
Introduction

The field research was carried out on request by the Vietnam-Sweden Mountain Rural Development Program during the period from October 24 to November 15, 1996. The team consisted of two Social Anthropologists; Mr. Vuong Xuan Tinh, Institute of Ethnography, Hanoi, Vietnam, and Mr. Peter Hjemdahl, Department of Social Anthropology, University of Gothenburg, Sweden. The focus of the research has been to identify some characteristics of traditional and present land tenure and land management of the two ethnic minorities Hmong and Dao living in an upland commune in the northern part of Vietnam. Based on the findings give recommendations to the MRDP in order to achieve a more adaptable model for land use planning and land allocation in the particular socio-economic, cultural, and geographical environment in the highland areas. Research was carried out mainly on location in the villages concerned, but loosely structured interviews were also held with officials on Province, District, and Commune level. In the Commune of Nam Ty, the team worked mainly in the villages of Nam Ty (Dao majority) and Nam Pien (Hmong majority). Toward the end of the field work, a meeting with local leaders was convened where the team presented its findings and tentative recommendations. The suggestions and findings of the researchers were met with strong support by the local representatives, who felt that the different issues and problems to be discussed were very much in accordance with local opinion. 30 days were spent in the commune of Nam Ty, and five days in Hanoi preparing the draft summary of findings, where the team worked in close cooperation with Dr. Pham Quang Hoan Vice Dir. the Institute of Ethnology in Hanoi, and Dr. Claes Corlin, Head of Department, Department of Social Anthropology, University of Gothenburg. A draft summary of findings was presented at an interdisciplinary workshop in Ha Giang on Nov. 23 -1996 INSERT FOTNOT: For a list of participants, see app. III
1. General overview: Nam Ty Commune

The commune of Nam Ty is located in the South of Hoang Su Phi District, 34 km from the district capital. A total of 4220 hectares of land, including 411 ha of agricultural land is spread out over a mountainous area of an elevation of between 600 to 2000 meters above sea level. The population in the commune is 2 392 persons; Dao (1 873) and Hmong (546), divided in five villages, or hamlets. The main locality of research; Nam Ty village (note. a village within the commune with the same name) is comprised of a total of 65 households of which all are Dao, and Nam Pien village where there are 33 Hmong households and 34 Dao. Both the Hmong and the Dao in the area originated in China. The oldest Dao lineage has been present in Nam Ty for 6 generations, whereas the first Hmong lineage to arrive has lived in Nam Pien Village for 5 generations. The settlement patterns of the two groups are different. The Hmong households are located close to each other at the higher altitudes. The Dao often settled further away from each other (ca. 0.5-3 km) on lower elevations, and generally have more land compared to the Hmong. In agriculture, for both the Hmong and the Dao, Rice and Cassava are the two main crops, supplemented by a variety of beans and vegetables, and some natural forest produce. Animal husbandry is limited to mostly buffalo, pigs and chickens. Fish rearing in the rice fields and ponds is common, but the yield is low. The main cash crop is Tea, which has been successfully cultivated in the area for at least a decade. As in most case in the upland areas of Vietnam where topography, soil fertility and climatic conditions is not as well suited to agriculture as in the fertile river deltas, the level of poverty is high. It is important to remember that when a particular household is referred to as belonging to the "rich", or "medium" category based on the village wealth ranking, that simply means they are "rich" or of "medium" status in comparison to other households in the same village. The village of Nam Pien may serve as an example; where not one household enjoys food security throughout the year. Even a "rich" household, on average, experiences food shortage for parts of the year.
2. Land Tenure and Land Use in Traditional Society

The period from traditional society to 1961

2.1 Land Tenure

The two forms of traditional land tenure in traditional Hmong and Dao society were **Communal** and **Private** tenure of land.

a. Communal tenure

Communal land was managed by the village. In Dao society, forest land and water resources in and around the village were protected and restricted. The communal land was managed through village law. There were restrictions to cutting down the forest and cultivating crops within these areas. If a household violated these laws, they were fined, and made to pay compensation to the villagers in meat and alcohol. The Dao also had a part of the forest set aside to the village's protective spirit, a Sacred Forest. In the Sacred Forest, at an altar constructed by a large tree, the villagers made offerings once every year, or more often when misfortune such as floods, landslides or epidemics struck the village. The offerings were given the local protective spirit who managed and protected the forests and the well-being of the villagers. If the Sacred Forest was violated, heavy fines were levied on the guilty party, who were made to pay for all expenses in the yearly ritual offering to the village's protective spirit. The traditional management of communal land for Hmong was similar to that of the Dao, but they did not have a Sacred Forest set aside for the well-being of the village. An assumption is that since the Dao were the first to settle the area, thereby being able to claim larger areas of land, and having always been in the majority (70% in the commune at present) they have had the opportunity, or found it necessary, to develop traits such as the above mentioned. The Hmong were later arrivals and had to, if not mix, at least establish themselves in the midst of the Dao cultural landscape. The Dao also had parts of the wet-rice land set aside to be managed by the lineage. This land was used to provide for ceremonial offerings, and the upkeep of the lineage altar. Ex. The Phan lineage in Nam Ty village had about 6000 sq. m (30 can ruong) of paddy land which was allotted, by the head of the lineage, to an individual household of the lineage to cultivate and use the yield for ceremonies and rituals. Later this land was redistributed among the lineage households, and at present, the head of the lineage still has a share of this communal lineage land. It is cultivated in turn by his sons and their wives, and they have to "pay" their father a certain amount for the use of this land. Communal land among the Hmong was most often the forested top third of the mountains. Some forest lining
the watersheds also seem to have been communal to some extent. All of which provided effective protection against erosion and land slides.

b. Private tenure

For both groups, all wet-rice land, swidden fields, residential land, and some forest land was privately owned, except for a portion sometimes managed by a lineage (Dao). Dao in particular occupied large areas of land, but the borders were not well defined. Prior to 1954, the population was small, and there was no shortage of land. As an example; In 1954 there were only 7 households in what is now workbrigade/ group 1 in Nam Ty. Tho same unit now includes 22 households. Each household had its share of wet-rice fields, resident land, swidden fields, and forest. Although land was abundant, some households still cultivated fields far away from their household in land closer to other villages; such as Nam Pien, or nearby Ong Thuong village. This may have been necessary in order to leave the land fallow, and in order to find land of high quality. The Hmong cultivated wet-rice fields mainly in the vicinity of the village. They did not have private forest land, but forest growth in and around watersheds were protected by village law.

c. State managed land

The state collected taxes on wet-rice land. When new rice terraces were constructed, the farmers had to report this to the local officials. Tax evasion was punished by fines levied in silver. If old natural forest was cut and burned, the punishment was also fines levied in silver.

2.2 Land Use

Traditional land use in Dao and Hmong communities mainly involved the construction of wet-rice terraces, and swidden fields for the cultivation of maize and cassava. Wherever there was a sufficient water supply and the land was not too steep, wetrice fields would be constructed. Both groups had thorough knowledge of how to construct terraces and how to protect them from erosion and breakage, mainly through the construction of a drainage system made out of bamboo pipes, which kept the water at a safe level. Like today, they only cultivated one crop per year, and used mainly local seed. Swidden fields were cultivated using a planting stick; small holes were made in the ground where the seed was to be planted, there was no use of a plow. Swiddens were seldom cleared of all forest cover, some trees and brushes were left to protect the soil from erosion. This method was a sustainable model for swidden agriculture of Cassava, Maize and Rice. It kept the nutrients in the soil, the limited population pressure allowed for long fallow periods, erosion was effectively controlled both in the field and in the watersheds through the selective cutting of trees and brushes. Traditionally, the Hmong cultivated mainly Maize because they lived high on the slopes of the mountains where the conditions are better suited for Maize.
Traditionally, Hmong food habits did not include rice. The staple diet was, up until the 1960's, Maize. Dao, and to a lesser extent Hmong, often cultivated Cassava on the steep slopes. The forests in and around the villages were important in many respects. They were exploited to a large degree in collecting traditional medicine, gathering fire wood and vegetables, and to some extent hunting.

The period of cooperative farming.

3.1 Land Ownership

a. Communal land

All wet-rice land and most of the swidden fields, especially Hmong swiddens, forest land and forests around the villages belonged to the cooperatives. Even ceremonial land as described above was managed, at least in part, by the cooperative. During the period of the cooperatives, large areas of land was reclaimed. (Mainly Tea and wet-rice land.) Of the total 1000 can ruong wet-rice in Nam Pien, 700 was reclaimed by the cooperative. (1 can ruong - 200 sq. m). The focus during this period, was to increase tea production. The newly built tea factory in Nam Ty village needed to be supplied with fresh tea for production, and Nam Ty village in particular was designated as the raw material area for the tea factory. The state collected taxes on the tea land through the intermediary of the tea factory. Taxes were levied, not on the farmers, but on the factory. Forest land was protected through local governmental institutions, and penalties were exacted on whoever violated the rules for forest protection.

b. Private land

The ruling principle during the period up to 1981 was that all land belonged to, and was to be managed by the state (through the cooperatives). Individual households had the right to occupy some land, but traditional land tenure rights were not honored. The households had rights to their resident land, their homegarden, and some land to cultivate trees. Through the entire period of the cooperatives however, the traditional land use and land tenure rights prevailed. As shown in the present day conflicts over land claims, the old traditional principles of land rights survived, even through several early attempts at allocating and redistributing land.

3.2 Land Use

a. Wet-rice land

The cooperatives experimented with cultivating some new varieties of rice seed, but with little success although they made use of chemical fertilizer and pesticides. Wetrice fields were also used to breed fish, and every household could use this method to supplement their diet.
b. Swidden fields

In and around 1967, some Hmong households started using the plow to cultivate their upland swiddens. The method was introduced through visits to a neighboring Hmong commune. The new method quickly led to substantial increase in yield, but also a rapid degeneration of soil fertility. After 2-3 years, the soil was close to exhausted, and new swiddens had to be cleared. As stated before, the old method of using only a planting stick was a sustainable land use practice in the swiddens. However, increasing population pressure, and the large increase in yield in a shorter period of time, made the farmers adopt the new technique.

c. Tea

The cultivation of Tea increased significantly during this period. This led to a decrease in natural forest cover because of the large amounts of firewood was needed to dry the tea. Not only fresh tea leaves was sold to the factory, but large amounts of dried tea as well because this fetched a higher price. The increased tea production led Dao to start cutting down trees in the restricted areas. (The Tea factory itself was built by the Government on land that was formerly the Dao Sacred Forest. The trees were cut down, and the temple destroyed.)
4. The period 1981-1996

In 1981, the Government issued decree no. 100. It was supposed to deal with and introduce "output contracts" for the farmers. This meant that the State was still the sole owner of land, but agricultural land use rights were given to groups who, after meeting quotas set by the cooperative, could market or keep the surplus. In Nam Ty the situation was different however. Local authorities took the policy one step further and reallocated the farmers traditional agricultural land that had until then been under cooperative control back to the rightful owners, the individual households. However, no certificates were issued, and the whole reallocation process should be considered "informal". There were little arguments on the reallocation of wet-rice land since the traditional land rights were very much in memory, and everyone honored these traditional claims. Concerning swidden land however, the process led to several problems, and laid the grounds for the land disputes that we see emerging today as a direct result of the present attempt at allocating land and issuing Land Tenure Certificates. Land claims escalated to a level far from reality, and the principle of allocating the (swidden) land was unfair.

Because the farmers had to plan for the future, land claims went into overdrive. Households claimed as much land as they possible could. Wherever a household had a swidden, fallow or in production, an area much larger than the actual swidden was claimed, and most often given. Disputes on borders between traditional swidden land were everywhere to be seen. As we have seen, there was no shortage of swidden land in the past. Therefore, at the time, it was not a priority issue to make clear the situation of land borders. Now, when the land was to be allocated, after a period when the population had increased dramatically, the farmers had to come to agreement on where the land borders were, and how to divide the land.

When the cooperative allocated swidden land, the allocation was based on whoever used the land at the period of the allocation received the rights to this land. This proved a very unequal situation for families who were not able to cultivate swidden land to the same extent as their neighbors. The reasons could be shortage of labor; many people had family members who had to stay away from their villages for long periods of time to work in other locations. These families did not receive any swidden land, or only received very little. (In this context it is important to understand that swidden land was, and is, often turned into wet-rice fields whenever there is an opportunity.) The main areas of disputes are, however, wet-rice land constructed by the cooperatives on land traditionally belonging to individual households.

When the cooperatives dissolved, newly planted Tea land and newly constructed wet-rice terraces were redistributed to the farmers. Serious attempts were made to do this according to equal principles. Households with little or no wet-rice land were given shares of these new wet-rice fields. "Rich" farmers were made to share their land to
the households who had less. This situation appears to have been stable at least for some time, until the Government decided on the present land allocation which, in Nam Ty commune, simply means formalizing the present situation. There are several ongoing and as of yet unsolved land disputes concerning the above mentioned category of land. The households who were forced to share their land after the break down of the cooperative are now claiming their land back.

4.1 Land Ownership

a. Communal land

Communal land was limited to mainly areas with old forest growth and land set aside for public use, such as; building schools and roads.

b. Private land

Households had rights to their wet-rice fields, residential land, Tea land, home garden, forestgarden, forest land, and swidden fields. The communal forest around the villages were divided for individual households to manage and protect. The rights were not ownership rights, but in reality, land was frequently bought and sold.

c. State managed land

The state had a direct responsibility to manage and protect forested land, but in reality, this was managed on the village level, and often allocated individual households for them to protect. The State also collected taxes, directly from the farmers, on wet-rice fields and tea.

4.2 Land Use

a. Wet-rice fields

Some households began using new strains of rice in this period. Mainly Chinese varieties. This is limited to the wealthier households because of the need to use chemical fertilizer and pesticides. At present the number of farmers using chemical fertilizer and pesticide is still less than 50 percent. The yield with the new varieties, with sufficient input of fertilizer and pesticide, is about 20-30 % higher. Still however, only one crop per year is achieved.

b. Swidden fields

The main food plant grown in the mountain fields is Cassava. It is harvested after two years. Occasionally, people also plant peanuts and beans in the swiddens, but this is more unusual. Beans, peanuts
and vegetables are more often intercropped in the tea land, or planted in the homegarden.

c. Tea

Tea was, and is still very much the focus of investment, at least through official governmental plans. The level of increased investment in Tea is not as high now as it was during cooperative farming. Tea is, apart from some Bamboo, the sole cash crop.

d. Home gardens

Vegetables is the main crop grown around the house. Tea trees are often grown on land that could be considered homegarden, and in between the Tea trees the farmers often plant beans (mainly Soya beans) and vegetables. Some households are also experimenting with fruit-trees; plum and pear trees, or grow a small wintercrop of maize.

e. Forest gardens

Mainly Bamboo, and most often natural growth. Some other varieties of trees are also planted in the forest garden’ in order for the natural growth to develop better, and to protect against erosion.
5. Some Remarks on Present Day Land Tenure and Land Use in Nam Ty Commune

5.1 Land tenure

- There has never been a formal allocation of land in Nam Ty. No Land Use Certificates have been issued. In reality however, 2/3 of all land in the commune have "owners", or is occupied. The remaining land is either state managed land, forest land or bare land in the high mountains. In order to cultivate the latter category, a household would need to put in a significant amount of labor.

- Land disputes and ("illegal") land occupation was and is still very much a reality. In the village of Nam Pien in particular, among the Hmong households, the situation around land rights and claims became very tense during the recent PRA exercise. There may be a need to limit peoples participation to some extent when dealing with, in particular, land allocation. Participation in land allocation has proved to create tension in the villages. Especially so when the decision making process is unclear, and higher levels of government leave decisions to be executed at village/commune level.

- Land claims, "illegal" occupation of land, and the early attempts at redistributing former cooperative land have led to a situation of, in some cases extreme, inequality of land ownership. In an example from Nam Ty village, the household with the largest area of agricultural land have more than 18 hectares, whereas the poorest household only has 1.7 hectares.

According to local officials in Nam Ty commune, there are still a number of households who have not yet had their land measured. Even more extreme cases exist; households with more than 30 hectares of land (the limit which will be allocated is set at 30 hectares.)

5.2 Land Use

- Land use is still similar to the situation during the cooperatives. Only one rice crop is taken, and the use of fertilizer and pesticide is still limited. Seeds are mainly of a local variant, and yields seem relatively low. In the swidden fields, the impact of the change in technique to cultivate, from hoe to plow, has had a large impact on soil fertility and erosion. Some households are planning to start growing Maize in winter (Hmong). This would mean a return to traditional practices, and the result will probably prove positive because of the considerable traditional knowledge of Maize.
cultivation. Unfortunately, a similar return to traditional methods of cultivation in the swiddens is not feasible. Reverting to using a hoe instead of a plow when cultivating Cassava would not bring enough yield because the soil fertility is too low.

- Animal husbandry for food consumption is limited to mainly; pigs, chickens and sometimes goats. Meat is not a large part of the diet, except for dried buffalo meat in winter. The mortality rate of the buffalo is very high due to the cold, and dried meat often accompany meals.

- There are still swiddening taking place in old growth forests to some extent.

- Logging is also taking place because of necessity. Some households have no other means to survive than to sell timber and fire wood.
6. Recommendations and Suggestions

6.1 On issuing Land Use Certificates in Nam Ty Commune.

Serious consideration should be taken to the particular situation of traditional and cooperative land use and land tenure patterns in the commune. The conditions regarding land in the commune are very different from what is found in the delta, and a continued special attention and care for the particular circumstance in the highlands should be a priority issue. Simply using the blue print for land allocation as developed in the delta area is not feasible in the highland communes such as Nam Ty. Specifically because decree no.10 was never implemented in many of the communes in the area presently under consideration. Models for managing and/or allocating, in particular Tea land and forest land with old growth forest, should be further developed to better suit the local situation. The 1993 land law states that land allocation is to be based on the situation following Decree no.10. Obviously, however, in areas such as Nam Ty, where Decree no.10 was never implemented, a thorough investigation into the background for the present situation of land holdings is needed. As explained, the situation of land is in many cases very unequal, and an overwhelming majority of farmers wishes to see a redistribution of land in order to achieve a more stable situation.

The difficulties in achieving this goal are mainly;

- The general shortage of agricultural land.

- The local decision making process is not always appropriate to the situation.

- High level corruption working toward obstructing a fair redistribution of land to the poor households, there seem to be a very low level of participation in the process of redistributing land in areas where high level officials are protecting large land holdings of their own.

As witnessed in so many other instances in Southeast Asia, corruption, if not dealt with now, will give rise to a potentially socially and politically unstable situation in the future. The government now needs to honor and consider the wishes of local government at all levels in areas such as Nam Ty. The democratic process begun by local initiative should be honored and supported in order to achieve a less unequal situation of land holdings in the commune. If the 1993 land law is implemented in Nam Ty, without taking into consideration the particularities of the local situation as described in the above, land allocation will perpetuate the existing inequalities in land holdings.
Local leaders in Nam Ty commune all agree that something needs to be done about the inequalities; providing land for the poorer farmers through a redistribution of land.

6.2 Suggestions and remarks on implementing the land allocation

a. Tea land and wet-rice land

The method for implementing the present land allocation must consider the particularities of each locality, especially in areas where the situation in the past differs significantly from the national norm (i.e. not implementing Decree no. 10 or decision 100.) In general; the allocation of agricultural land may be based on the current situation. Tea land is not subject to disputes, and the allocation may be based on the present tenure situation. Traditional land use rights to ancestral wet-rice fields should be honored, but land claims based on traditional land use rights to ancestral swidden fields on which the cooperative constructed wet-rice fields should not be considered valid. The informal allocation that took place after the breakdown of the cooperatives aimed at providing for a more equitable distribution of wet-rice land, and was implemented through democratic principles. Ancestral wet-rice land was given back to the farmers, and wet-rice terraces constructed by the cooperative were redistributed to households with little ancestral land. This allocation should serve as a base for the present issuing of Land Tenure Certificates. Present day conflicts and claims should be solved based on individual needs and the informal allocation described.

b. Forest land and swidden fields

It is also important to look into the situation of forest land and swidden fields. A redistribution of land belonging to these categories should be carefully considered. Swidden fields, in particular, were also subject to an unofficial allocation when the cooperatives broke down. The criteria for claims and allocation did not provide for equal opportunity to obtain land and left a situation where many households were left with very little land, and others could lay claims to large areas. In order to achieve stability, a redistribution is necessary. It is important to note that swidden fields and forest land are not fixed categories. Swidden fields and bare forest land is often turned into wet-rice fields wherever and whenever possible. Before allocation is carried out, the importance of remaining communal forest land in regards to food security and animal husbandry needs to be further studied. This category of land also constitutes nearly the only "reserve" of land available. It is inevitable that portions of the remaining forest land will be turned into agricultural land because of population pressure and the general shortage of land in the commune. But with an increased focus on the part of the MRDP into alternative sources of income for the farmers, and intensification of existing methods of cultivation, the situation may at least be alleviated to some extent. Other models for
allocating communal land and unused land than allocation on a personal or household basis should also be further studied. With suitable land use and land management plans contrived in close collaboration with the farmers for the communal forest land, allocating this land to the village as a unit rather than apportioning the land to individual families could prove very suitable. Traditionally, Hmong and Dao land management has always included an element of communal control, and with regards to issues such as forest protection and watershed management this model may prove useful. There is a large degree of variation in local forms of land management; it is important to remember that traditional forms of local land management of the ethnic minorities have changed as a result of government policies through the second half of the decade. And are changing even faster with the introduction of market economic principles on land use and land tenure. Opinions on how to allocate communal forest land differ widely, between levels of government, and based on the local situation. This suggests a pressing need to study the issue further.

The local level government, village and commune level officials, have taken several steps to provide for a more fair distribution of land, but the process will need strong support from District and Provincial level in order to become sustainable. A thorough review into the period of intensive land claims and land occupation should be conducted because of the (above discussed) inequalities of the process as discussed in the above. A committee should be established, including representatives of village leaders, local officials, lineage heads and village elders, and retired cooperative leaders to examine and revise the situation created by previous land allocations.

Priority on all of the above listed issues should be given the poorest households. The present situation includes land-less farmers as well as day laborers. Undernourishment is common and the widespread feeling of inequality threatens the social and political stability in the commune. Concerning land allocation and redistribution of agricultural land in general, in order to avoid future social and political unrest, as a general rule, consideration should be taken to a households labor force in relation to their land holdings before the allocation is done. This, as to avoid the hoarding of land, and other less productive practices.

Main Findings (summary)

- Situation with Dat Mau (Swidden Land); no consensus regarding claims.

- Unequal distribution of agricultural land.

- Present situation of decision making inadequate. Very difficult for local leaders to make necessary decisions in trying to solve disputes because of family ties and village cohesion. There is a need to establish an independent board to deal with and execute decisions concerning land disputes, the redistribution and allocation of land.
- The need to expand the activities of the MRDP in the commune. As an example of this; Nam Ty is not eligible for forest protection contracts (such as contract 327, HSP Forest Enterprise), or many other contracts or aid programs aimed at rural development because of the commune being within the MRDP. The policy from Province and District level seems to be to apportion and "ration" the different Contracts and Programs so that if a program, like the MRDP, is already working in one commune, this commune will not be able to participate (and receive funding) from another program (or state contract).

The need for funding for tree planting. Mainly to protect the watersheds and fields from land slides and erosion. The planting of fruit-trees and other experimental cultivation is not of priority concern, but would be very much appreciated by the farmers if the MRDP provided the investment and feasibility studies needed. This is one area where the MRDP should try to make better use of the vast experience available from other "Program Villages".

Experimentation with different crops, successful and unsuccessful, have taken place in many different locations since the start of the first phase of the Program, full use of the practical knowledge accumulated through this process should be made.

**Possible areas of local economic expansion**

- The main issue towards providing for food security is to expand the cultivation of rice to include a second crop (spring crop). This involves heavy investment in seed, fertilizer, and pesticides. The issue of how to finance this should be further studied. Credit or direct investment?

- The planned re-introduction of a winter crop of maize should be supported.

- Constructing and supporting a local market could prove a very effective means to provide alternate sources of income. This would be especially important concerning the situation of women as it would give them a greater independence and economic security.

- Tea should continue to receive attention and investment as this is the main cash crop in the area, and every household has private tea land to utilize.

- Introduction of new crops should be very carefully planned so as to avoid crop failure. There is at present very little room for crop failure where 100% of the households experience seasonal food shortage.

- Fishponds are a valuable source of income and protein, and should be expanded and the construction of new ponds encouraged and supported. The construction of a large fish nursery, placed under communal management, could lower costs in rearing fish. At present,
many varieties of fish for breeding have to be bought at other
locations and transported long distances.

- Because of the climate, the mortality rate of water buffalo is
very high in the winter. The animals are left to graze in the communal
forest during the winter months. If the construction of shelters is to be
supported, consideration of what this will mean in regards to
increased workload needs attention.

- The Women's Union in the district have some plans to
establish a school for women wanting to learn basic economic skills.
This is an effort which should warrant strong support from the MRDP.
Appendix I: Terms of Reference

Vietnam - Sweden Mountain Rural Development Program

Re. Study on Land Tenure and Land Management in Nam Ty Commune, Hoang Su Phi District, Ha Giang Province

This study is part of the APO (Annual Plan of Operation) 96, July - December. The purpose of the study is to get knowledge about the present and traditional land tenure in a typical Hmong/Dao Commune in the uplands of the program area and, based on this knowledge give recommendations on how to improve or develop the land management (land use planning, land allocation, forest management etc.) methods. Nam Ty Commune (with a mixed Hmong/Dao population) has been selected for the study.

The tasks of the study team are:

(1) To study the traditional and present land tenure and land use in Nam Ty Commune.

(2) To study how land use planning and land allocation are done in the District at present by looking at a similar commune where these activities have been carried out recently.

(3) To present the findings of the study in a workshop in Ha Giang.

(4) To deliver a final report not later than three weeks after the work in the Province has been terminated.

The study will be done by a joint team of short-term consultants from the University of Gothenburg in Sweden, and the Institute of Ethnology in Hanoi.
Appendix II: Method for Land Allocation used in Hoang Su Phi District, Ha Giang Province in the MRDP Program

1. Background

MRDP is working in five provinces, 18 districts and 74 communes in the North of Vietnam in the present phase II (1996-2000) of the program. In phase 1, the five provinces have developed and tested different methods for land use planning and land allocation. Within the next half year the methods will be reviewed in order to identify the "best" or the most "promising" methods. Thus, today it is too early to present the specific "MRDP" method. The land allocation method presented below is just one example of the different methods used in MRDP.

2. Location

The method has been used in Po Lo and Nam Dich communes in 1995-1996, and is being used at the moment in Nam Ty commune in Hoang Su Phi District, Ha Giang Province.

3. Principles

The land allocation is based on the following main principles:

- The legal framework (the land law and government decrees 64 and 02) and the guidelines issued by Ha Giang Province in 1992.

- All land in the Commune is allocated. Land (agricultural land, forest land, resident or bare land) that is occupied by the households is allocated to the households (legalization of the present land occupancy). Land that is not occupied (mainly forest land) is allocated in a lump to the village or the commune.

- Land that is under conflict is not allocated (will be allocated later when the conflict has been solved).

- The maximum area to be allocated per family is:

<table>
<thead>
<tr>
<th>Land Type</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident land</td>
<td>400 sq. m</td>
</tr>
<tr>
<td>Agriculture land</td>
<td>3 ha</td>
</tr>
<tr>
<td>Forest land</td>
<td>20 ha</td>
</tr>
<tr>
<td>Bare land</td>
<td>no limit</td>
</tr>
</tbody>
</table>
4. Methodology

4.1 Institutional Arrangements

The land allocation in the field is done by a survey team consisting of two surveyors from the cadastral section in the district and the commune cadastral officer. They cooperate with the Head of the Village and the affected households. The final drawing of the cadastral map, area calculation etc. are done by the Department of Land in Ha Giang.

The land allocation is supervised by a Land Allocation Committee at Commune level, consisting of the Chairman of Peoples Committee (also chairman of the Land Allocation Committee), the commune cadastral Officer, the heads of the villages and representatives of the different commune sections and organizations.

4.2 Land Classification/ Land Use Planning

The land classification system used is the one issued by the GDLA includes six main categories of land (according to the land law) with various sub categories.

There is no land use planning done before the land allocation.

4.3 Documentation

The survey is based on interpretation of aerial photos at scale 1:5,000, which have been enlarged from standard aerial photos at scale 1:33,000, and field checking together with the villagers. The borders of the land holdings are drawn directly on the photo. The photos are then sent to the Dep. of Land Administration where they are transformed into a cadastral map (also at scale 1:5,000) by drawing on a transparent sheet over the photos (photo mosaic method).

4.4 Type of Approach

The land allocation is multi-disciplinary in the sense that the Land Allocation Committee consists of representatives of the different disciplines at commune level. The main land allocation work, however, is done in a single disciplinary manner by the DLA and its Cadastral Section at District level.

4.5 Area Measurement

The areas of the land holdings are measured on the cadastral map by help of the "transparent square grid method".
4.6 Peoples Participation

General information meetings are held with villagers. The head of the village participates fully in the survey. The individual households are approached to check the picture of their land holdings on the cadastral map (if there are uncertainties, they go to the field for checking) and to check and approve the area calculated.

5. Procedure

The land allocation process could be divided into the following steps:

(1) Forming the Land Allocation Committee (LAC) at Commune level
(2) Organizing the survey team
(3) Meeting with the villagers to inform about the land allocation
(4) Cadastral mapping and checking by DLA
(5) Meetings with the villagers for checking and approval of the cadastral map and the areas, and for writing and signing the land application forms.
(6) Meeting with the LAC for getting approval of the land applications. Registration in the Registration Book
(7) Sending all maps and documents to the District PC for approval. Registration in the Cadastral Book
(8) Issuing of the Land Tenure Certificates. Registration in the List of LTC Issued Book.

6. Costs

The cost of the land allocation according to this method is 21,000 VND/ha

This includes the cost of enlarging the aerial photos, but not the costs of procuring the basic aerial photos at scale 1:33,000.

The households pay 5,000 VND for the LTC. This cost is not included in the above figure.

7. Results

The method has been used in Po Lo and Nam Dich communes covering a total of 3,683 ha with 674 households. All the households have been given LTC.
8. Experiences, Problems and Issues

(1) The method is easy and quick. With two surveyors in the Survey Team, the land allocation takes 3-4 months per commune. With present budget level, Ha Giang DLA can carry out land allocation in about 20 communes per year. Thus it will take 5 years to complete the remaining 105 communes in the Province.

(2) Aerial photos do not cover the whole province. Funds are lacking to procure additional photos.

9. Recommendations

The method could be seen as a first quick step to allocate land to households and issue LTC’s. However, the method should later be added a second step including:

(1) Complementary land allocation after having solved the existing land conflicts.

(2) Forest land use planning, covering the land that has been allocated in a lump to the village.

(3) Continued allocation of forest land to households (after land use planning).

(4) Creating better cooperation between DARD, DLA and the Forest Inspection Unit in order to achieve a true interdisciplinary land use planning and land allocation.

MRDP
Nguyen Hai Nam
Rolf Gilliusson
November 25, 1996

Appendix III: List of participants of the Workshop in Ha Giang